

(2) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars, namely:—

(a) a statement of the amount of money and a description of the effects;

(b) in the case of a sale, a description of each article sold and the sum received for each; and

(c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

Disposal of property of seamen who die during the voyage.

67. (1) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

Act I of 1859, s. 60.
M. S. A., s. 170.

(2) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

Penalty for non-compliance with provisions as to property of deceased seamen.

68. (1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

Act I of 1859, s. 61.
M. S. A., s. 171.

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

Payment over property of deceased seamen by shipping-master.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

Act I of 1859, s. 62.
M. S. A., s. 176.

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

- (b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889, VII of 1889, to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

Disposal
of unclaimed
property of
deceased seamen.

70. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

Act I of
1859, s. 63.
M. S. A., s.
179.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just :

Provided that after the expiration of six years from the receipt of such property by the shipping-master no claim to such property shall be entertained without the sanction of the local Government.

Distressed Seamen.

Relief of
distressed seaman
to whom
Merchant
Shipping Acts
apply.

71. (1) A certificate of the local Government or of such officer as the local Government may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

Act XIII of
1876, s. 3.

(2) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

Recovery of
wages, etc., of
distressed seamen
under the
Merchant
Shipping Acts.

72. (1) Where any wages or expenses recoverable in respect of distressed seamen under the Merchant Shipping Acts, are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India the Governor General in Council may, from time to time by notification in the *Gazette of India*, authorise, either generally or specially, such persons as he thinks fit to sue for and recover in manner in the Merchant Shipping Acts provided, those wages or expenses.

Act V of 1883,
ss. 32 and 33.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.

I of 1872.

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Acts apply.

73. Nothing in the following provisions of this Part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

Act VII of 1880, s. 54.

Relief of distressed seamen at British Indian ports.

74. (1) Where any seamen or apprentices—

Act VII of 1880, s. 55.

- (a) being Indian subjects of His Majesty are found at any place in British India and have been shipwrecked, discharged or left behind whether from any British ship or from any of His Majesty's ships and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign State, and are in distress in British India; and
- (b) not being Indian subjects have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(2) "Local authority," in relation to the provisions of this Act as to distressed seamen, means such person as the local Government may, subject to the control of the Governor General in Council, appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

Act VI of 1880, s. 54.

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

75. (1) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging to any subject of His Majesty which is in want of men to make up its complement and is bound—

Act VII of 1880, s. 56.

- (a) in the case of distressed seamen who are Indian subjects of His Majesty, to their home or to a port in British India near their home;
- (b) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and
- (c) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

76. The local authority shall indorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

Act VII of 1880, s. 58.

Master of British ship compelled to convey and give subsistence to such seamen.

77. (1) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.

Act VII of 1880, ss. 59 and 60.

(2) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (1), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

Conditions under which master may claim payment.

78. (1) When the master of a British ship has conveyed a distressed seaman in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such distressed seaman such sum per diem as the Governor General in Council may fix :

Act VII of 1880, s. 61.

Provided that no such payment shall be made except on the production of the following documents (that is to say):—

- (a) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board ; and
- (b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—
 - (i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship ;
 - (ii) the number of men and boys forming the complement of his crew ;
 - (iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board ; and
 - (iv) every variation (if any) of such number.

(2) The declaration required by this section shall, in the case of a ship conveying Indian subjects of His Majesty to a port in British India, be made before a shipping-master or such other officer as the local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906.

Wages and expenses incurred in respect of distressed seaman to be charged on ship to which they belong in certain cases.

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance, home, and, in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which he belonged.

6 Edw. 7, c. 48.
Act VIII of 1880, s. 62.
Cf. M. S. A., s. 42.

Mode of recovering such wages and expenses.

80. All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him.

Act VII of 1880, s. 63.

Local Government may authorise persons to recover same.

81. (1) The local Government may, by notification in the local official gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such expenses and wages and recover the same.

Act VII of 1880, s. 64.

(2) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.

I of 1872.

Board of Trade may recover such amount from master or owner in certain cases.

82. When any such expenses and wages are due to or in respect of a distressed seaman (not being an Indian subject of His Majesty) belonging to a British ship registered in British India, they may, instead of being recovered by a person authorized under section 81, be recovered by the Board of Trade in manner provided by section 42 of the Merchant Shipping Act, 1906, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

Act VII of 1880, s. 65.

6 Edw. 7, c. 48

What shall be evidence of distress and expenses incurred.

83. In all proceedings under this Part whether in British India or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved, or any expenses were incurred under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

Act VII of 1880, s. 66.

Power of Governor General in Council to make rules.

84. The Governor General in Council may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

Act VII of 1880, s. 67.

Provisions, Health and Accommodation.

Complaints as to provisions or water.

85. (1) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity, they may complain

Act I of 1859, s. 64.
M. S. A., s. 198.

thereof to any shipping-master or other officer duly appointed in this behalf by the local Government, and the shipping-master or other officer may either examine the provisions or water complained of or cause them to be examined.

(2) If the officer or person making the examination finds that the provisions or water are of bad quality, and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(4) The officer directing or the person making the examination shall enter a statement of the result of the examination in the official log-book, and shall, if he is not the shipping-master, send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(5) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Act I of 1859,
s. 65.

Allowance for
short or bad
provisions.

86. (1) In either of the following cases—

Act I of 1859,
s. 66,
M. S. A.,
s. 199.

- (i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore); or
- (ii) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use;

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages—

- (a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman;
- (b) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman;

(c) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

Medicines to be provided and kept on board certain ships.

87. (1) All foreign-going British ships and all home-trade ships of more than three hundred tons burden, shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the local Government with the approval of the Governor General in Council and published in the local official gazette.

Act I of 1859,
s. 67.
M. S. A.,
s. 200.

(2) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in British India and to which section 200 of the Merchant Shipping Act, 1894, applies.

57 and 58
Vict., c. 60.

Weights and measures on board.

88. The master of a ship shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Act I of
1859, s. 68.
M. S. A.,
s. 201.

Expenses of medical attendance in case of illness.

89. (1) If the master of, or a seaman or apprentice belonging to a ship registered in British India receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and, in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

Act I of
1859,
s. 69.
M. S. A.,
s. 207.
See also the
M. S. A.,
1906, s. 34.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and if any such expenses are paid or allowed out of any money forming part of the

revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Secretary of State for India in Council.

Accommodation
for seamen.

90. (1) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have—

Act I of 1859,
s. 70, as
amended by
Act XIII of
1876, s. 9.
M. S. A.,
s. 210.

(a) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of ten superficial feet in the place be not less than six feet in height from deck to deck, or sixty cubic feet if the height from deck to deck be less than six feet;

(b) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet and, if the place allotted be under the top gallant fore-castle, such fore-castle deck shall be not less than four feet six inches above the one below it.

(2) In every case the place shall be below a well-caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(5) If any such place is not so kept free the master shall for each offence be liable to a fine which may extend to one hundred rupees.

Inspection of
medicines and
appliances and
accommodation.

91. (1) The shipping-master or deputy shipping-master at any port in British India may enter at any time on board any ship upon which seamen have been shipped at that port and inspect the medicines and appliances and the accommodation for seamen with which the ship is required to be provided by or under this Act or the Merchant Shipping Act.

Act I of 1859
s. 71.

(2) If, on inspection, the provisions or water on board any ship are found to be of bad quality, and unfit for use or deficient in quantity, the shipping-master shall proceed as provided in section 85, and the fine prescribed by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water and the ship shall be detained until the defects are remedied to the satisfaction of the shipping-master.

Facilities for making Complaints.

Facilities for
making
complaints.

92. (1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit—

Act I of 1859,
s. 72.
M. S. A.,
s. 211.

(a) if the ship is then at a place where there is a Magistrate, after such statement, and

(b) if the ship is not then at such place, after her first arrival at such a place.

allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

(2) If the master of a ship fails, without reasonable cause, to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

Assignment or sale of salvage invalid.

93. Subject to the provisions of this Act an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be revocable.

Act I of 1859, s. 73.
M. S. A., s. 212.

No debt exceeding three rupees recoverable till end of voyage.

94. A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable until the service agreed for is concluded.

Act I of 1859, s. 74.
M. S. A., s. 213.

Penalty for overcharges by lodging-house-keepers.

95. If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Act I of 1859, s. 75.
M. S. A., s. 215.

Penalty for detaining seamen's effects.

96. (1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

Act I of 1859, s. 76.
M. S. A., s. 216.

(2) Any Magistrate imposing a fine under this section may direct the amount of such money or the value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

Penalty for solicitations by lodging-house-keepers.

97. If within twenty-four hours after the arrival of a ship at a port in British India a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Act I of 1859, s. 78.
M. S. A., s. 217.

Penalty for being on board ship without permission before seaman leave.

98. Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in His Majesty's service or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens

Act I of 1859, s. 77.
M. S. A., s. 218.

last), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody and deliver him up forthwith to a police officer to be taken before a Magistrate to be dealt with according to the provisions of this Act.

Provisions as to Discipline.

Misconduct
endangering life
or ship

99. If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

Act I of 1859,
s. 79, as
amended by
Act V of 1883,
s. 36, M. S. A.,
s. 220.

(a) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb;

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

Desertion and
absence without
leave.

100. If a seaman lawfully engaged or an apprentice commits any of the following offences, he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary manner and to be punished as follows:—

Act I of 1859,
s. 83,
s. 221,
M. S. A.,
V of 1898.

(i) if he deserts from his ship he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in British India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks;

(ii) if he neglects or refuses, without reasonable cause, to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as

such by the master, be guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks.

Conveyance of deserter or imprisoned seaman on board ship.

101. (1) If a seaman or apprentice is guilty of the offence of desertion or of absence without leave or otherwise absents himself from his ship without leave the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance, if required.

Act of 1859, s. 86, M. S. A., s. 222.

(2) If the seaman or apprentice so requires he shall first be taken before some Court capable of taking cognizance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other, breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master, or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

Power to Court to order offender to be taken on board ship.

102. Where a seaman or apprentice is brought before a Court on the ground of the offence of desertion or of absence without leave or of otherwise absenting himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may, in such case, order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and, if necessary, to be deducted from any wages which he has been earned or by virtue of his then existing engagement may afterwards be earned.

Act I of 1859, s. 87, M. S. A., s. 224.

General offences
against discipline.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary way and to be punished as follows, namely:—

Act I of
1859, s. 83.
M. S. A.,
s. 225.

V of 1898

- (i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;
- (iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks;
- (vii) if he is convicted of any act of smuggling whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay to that master or owner a sum sufficient to re-imburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

Penalty for false
statement as to
last ship or name.

104. (1) If a seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

Act I of
1898, s. 95.
M. S. A.,
s. 227.

(2) The fine may be deducted from any wages the seaman may earn by virtue of his engagement

as aforesaid and shall, subject to re-imbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

Entry of offences
in official log.

105. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

Act I of
1859, ss. 84
and 96.
M. S. A.,
s. 228.

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew; and
- (ii) the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and
- (iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and
- (iv) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct.

Report of
desertions and
absences without
leave.

106. (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself in British India without leave from a British ship in which he is engaged to serve, the master of the ship shall within forty-eight hours of discovering such desertion or absence report the same to the shipping-master or to such other officer as the local Government appoints in this behalf, unless, in the meantime, the deserter or absentee returns.

Act XIII of
1876, s. 6.

(2) Any master wilfully neglecting to comply with the provisions of this section, shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Entries and
certificates of
desertion abroad.

107. (1) In every case of desertion from a ship registered in British India whilst such ship is at any place out of British India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the Merchant Shipping Act, 1906, to grant certificates for leaving seaman behind abroad; and that person shall thereupon make and certify a copy of the entry.

Act I of
1859, s. 89.
M. S. A.,
s. 229.

6 Edw. 7,
c. 48.

(2) The master shall forthwith transfer such copy to the shipping-master at the port at which the

seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same to be produced in any legal proceeding.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion, be admissible in evidence.

Facilities for proving desertion in proceedings for forfeiture of wages.

108. (1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in British India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

Act I of 1859, s. 90, M. S. A., s. 231.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Application of forfeiture.

109. (1) Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards re-imbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursement, shall be paid into the public treasury and carried to the account of Government.

Act I of 1859, s. 93, M. S. A., s. 232.

(2) For the purposes of such re-imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Act, in any case, other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner, by whom the wages are payable.

Decision of questions of forfeiture and deduction in suits for wages.

110. Any question concerning the forfeiture of or deduction from the wages of a seaman or apprentice may be determined in any proceeding lawfully instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Act I of 1859, s. 94, M. S. A., s. 231.

Ascertainment of amount of forfeiture out of wages.

111. (1) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of

Act I of 1859, s. 92, M. S. A., s. 234.

forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Payment of
fines imposed
under agreement
to shipping-
master.

112. (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely:—

Act I of 1859,
s. 96.
Cl. M. S. A.,
s. 235 (now
M. S. A., 196,
s. 44).

(i) if the offender is discharged at any port or place in British India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master; and

(ii) if, before the final discharge of the crew in British India, any such offender as aforesaid enters into any of His Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person; and, on the return of the ship to British India, the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

Penalty for en-
ticing to desert.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

Act I of 1859,
s. 97, M. S. A.,
s. 236.

Penalty for
harbouring deser-
ters.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

Penalty on
stowaways and
discipline of stow-
aways and seamen
carried under
compulsion.

115. (1) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

Act I of
1859, ss. 85
and 98.
M. S. A.,
n. 237.

(2) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of and had signed the agreement with the crew.

Procedure where
seaman or appren-
tice not shipped
in British India
is imprisoned on
complaint of
master or owner.

116. (1) If any seaman or apprentice who is not shipped in British India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

Act XIII of
1876, s. 8,
as amended
by Act XII
of 1891.

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(b) the Local Government or such officer as it may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

(i) the wages due to such seaman or apprentice and his money and effects; and

(ii) such sum as may, in the opinion of the Local Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when so required by this section shall be liable to a fine which may extend to five hundred rupees.

Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment.

117. If any seaman or apprentice who is not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

Act I of 1859, s. 88
Act XIII of 1876, s. 7

See M. S. A., s. 228.

On change of master, documents to be handed over to successor.

118. (1) If during the progress of a voyage the master of any ship registered in British India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and shall in default be liable to a fine which may extend to one thousand rupees.

Act I of 1859, s. 99
M. S. A., s. 258.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Leaving Seamen or Apprentices in British India.

Discharge or leaving behind in British India of seamen or apprentices not shipped in British India.

119. (1) No seaman or apprentice who was not shipped in British India shall be discharged at any port in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

Act XIII of 1876, s. 4.
M. S. A., s. 188.
See now M. S. A., 1906, ss. 50 and 56

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Official Logs.

Official logs to be kept and to be dated.

120. (1) An official log shall be kept in every ship registered in British India except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the Local Government.

Act I of 1859, s. 103
M. S. A., s. 259

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(3) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the

Act I of 1859, s. 104.

entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(4) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

- (a) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any; and
- (b) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and
- (c) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(5) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

Entries required
in official log-
book.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely:—

- (i) every conviction by a legal tribunal of a member of his crew and the punishment inflicted;
- (ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required;
- (iii) every offence for which punishment is inflicted on board and the punishment inflicted;
- (iv) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;
- (v) every case of illness or injury happening to a member of the crew with the nature thereof and the medical treatment adopted (if any);
- (vi) every case of death happening on board and the cause thereof;
- (vii) every birth happening on board with the sex of the infant and the names of the parents;
- (viii) every marriage taking place on board with the names and ages of the parties;
- (ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (x) the wages due to any seaman who enters His Majesty's naval service during the voyage;

- (xi) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;
- (xii) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it;
- (xiii) every collision with any other ship and the circumstances under which the same occurred.

Offences in respect of official logs.

122. (1) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

Act I of 1859,
s. 107. M. S.
A., s. 241.

(2) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

Delivery of official logs to shipping-masters.

123. (1) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged.

Act I of 1859,
s. 108. M. S.
A., s. 242.

(2) The master or owner of every home-trade ship for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in British India the official log-book for the preceding half-year.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

124. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in British India, within one month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation.

Act I of 1859,
s. 110. M. S.
A., s. 243.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the loss or abandonment.

(3) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

No steam-ship to carry passengers without a certificate of survey.

125. (1) No steam-ship shall carry more than twelve passengers between places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

Act VII of 1884, s. 4, inserted by Act I of 1909, s. 3. M. S. A., s. 271 (1).

(2) Nothing in sub-section (1) shall apply to—

Act VII of 1884, s. 5 (a), (b), (c). Cf. M. S. A., ss. 278 (2) and 284.

(a) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Majesty's dominions where such certificate has been declared under section 284 of the Merchant Shipping Act, 1894, to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient; or

57 and 58 Vict., C. 60.

(b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1917, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or

I of 1917.

(c) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed.

Power for Local Government to exempt certain steam-ships.

126. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the Local Government may direct.

Act VII of 1884, s. 25. Act III of 1902, s. 3.

No port-clearance until certificate of survey produced.

127. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Act VII of 1884, s. 7.
M. S. A., s. 271 (1) (b).

Power to detain steam-ship not having certificate of survey.

128. If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Act VII of 1884, s. 8.
M. S. A., s. 271 (2).

Appointment of surveyors and ports of survey.

129. The Local Government may appoint so many persons as it thinks fit to be surveyors for the purposes of this Part at such ports within the territories under its administration as it may appoint to be ports of survey.

Act VII of 1884, s. 9.
M. S. A., s. 274 (1).

Powers of surveyor.

130. (1) For the purposes of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof:

Act VII of 1884, s. 10.
M. S. A., s. 275.

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Fees in respect of surveys.

131. Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

Act VII of 1884, s. 10-A. (inserted by Act III of 1890, s. 15).
M. S. A., s. 277.

(a) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule II or according to any other prescribed rates; and

(b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee in respect of the expense (if any) of the journey of the surveyor to the port as the Local Government may, by notification in the local official Gazette, direct.

Power for Local Government to direct that two surveyors be employed.

132. A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Act VII of 1884, s. 20.

Division of duties when two surveyors employed.

133. When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the rules made thereunder to a surveyor making a survey.

Act VII of 1884, s. 22.

Declaration of
surveyor.

134. When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied, that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

Act VII of
1884, s. 11
M. S. A.,
s. 272 (2), 3)
and (4).

- (a) that the hull and machinery of the steamship are sufficient for the service intended and in good condition;
- (b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;
- (c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient;
- (d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steamship is in the surveyor's judgment not fit to ply;
- (e) the number of passengers which the steamship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and
- (f) any other prescribed particulars.

Sending of
declaration by
owner or master
to Local Govern-
ment.

135. (1) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

Act VII of
1884, s. 12.
M. S. A.,
s. 273.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

Grant of certi-
ficate of survey
by Local Govern-
ment.

136. (1) Upon receipt of a declaration of survey, the Local Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steamship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steamship surveyed, on his applying and paying the sums (if any) mentioned in this Part as payable on delivery of a certificate.

Act VII of
1884, s. 13.
M. S. A.,
ss. 274 and
275.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with

respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section 134 require the declaration by the surveyor to contain; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(4) The Local Government may delegate to any person—

(a) the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section;

Act III of 1890, s. 17 (2). Act XXXVIII of 1920, s. 2.

(b) the function, assigned to the Local Government by sub-section (3), of causing notice to be given of a certificate of survey being ready for delivery:

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

Power for Local Government to order a second survey.

137. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Part to survey the steam-ship.

Act VII of 1884, s. 21, amended by Act of 1890, s. 20 M. S. A., s. 275.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

Duration of certificates of survey.

138. A certificate of survey granted under this Part shall not be in force—

Act VII of 1884, s. 16. M. S. A., s. 278 (1).

(a) after the expiration of one year from the date thereof; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or

(c) after notice has been given, by the Local Government, to the owner or master of the steam-ship to which the certificate relates that the Local Government has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Local Government.

139. Any certificate of survey granted under this Part may be cancelled or suspended by a Local Government if it has reason to believe—

Act VII of 1884, s. 17, M. S. A., s. 279.

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been issued upon false or erroneous information; or
- (c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

Power to require delivery of expired or cancelled certificate of survey.

140. (1) The Local Government may require any certificate of survey granted under this Part which has expired, or has been cancelled or suspended, to be delivered up to such person as it directs.

Act VII of 1884, s. 18, M. S. A., s. 280.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees.

Report of cancellation or suspension of certain certificates

141. If the Local Government which cancels or suspends a certificate of survey granted under this Part is not the Local Government which or whose delegate granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons thereof, to the Local Government which or whose delegate granted the certificate.

Act VIII of 1884, s. 19, as amended by Act III of 1890, s. 19.

Certificate of survey to be affixed in conspicuous part of steam-ship.

142. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

Act VII of 1884, s. 15, M. S. A., s. 281(1)(2).

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

Penalty for carrying passengers in contravention of the Act.

143. If a steam-ship on any voyage carries or attempts to carry passengers in contravention of section 125 or has on board or in any part thereof a number of passengers which is greater than the number set forth in the certificate of survey as the number of passengers which the steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board; and if the master or any other

Act VII of 1884, s. 14, inserted by Act I of 1920, M. S. A., s. 283.

officer of any steam-ship which carries or attempts to carry passengers in contravention of section 125 is a licensed pilot, he shall be liable to have his license as a pilot suspended or cancelled for any period by the Local Government.

Steam-ships with foreign certificates of survey or certificates of partial survey.

144. (1) When a steam-ship requires to be furnished with a certificate of survey under this Part and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the Port where the survey was made, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part :

Act VII of 1884, s. 23, inserted by Act I of 1909, s. 4. M.S.A., s. 336.

Provided that this sub-section shall not apply in the case of a foreign steam-ship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894, shall not apply.

57 and 58 Vict., C. 60.

(2) When the Local Government has, by notification in the local official Gazette, declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by sub-section (1) in the case of any steam-ship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular Officer at that port.

(3) The procedure prescribed in sub-section (1) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam-ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said sub-section may be exercised by any person appointed by the Local Government in this behalf.

Power for Local Government to make rules as to surveys.

145. (1) The Local Government may, subject to the condition of previous publication and the sanction of the Governor General in Council, make rules to regulate the making of surveys under this Part.

Act VII of 1884, ss. 24 and 42(5).

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;
- (c) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively; and

- (d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

Act III of
1890, s. 21.

Provisions in case of Wreck of Ship carrying Steerage Passengers.

Application of
certain sections
of Merchant
Shipping Act,
1894, in case of
wreck of ship
carrying steerage
passengers on
certain voyages.

146. (1) The provisions contained in Part I of Schedule III (being sections 332, 333, 334 and 335 of the Merchant Shipping Act, 1894) are declared applicable to ships carrying steerage passengers upon the following voyages, namely:—

Act XII of
1885, ss. 3, 4,
5, 6 and 7, 57
& 58 Vict., C.
60.

- (a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;
- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Reunion, Martinique, Guadeloupe and its dependencies, and Guiana;
- (c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands Colony of Dutch Guiana;
- (d) voyages from the ports of Calcutta, Madras and Bombay to the Danish Colony of St. Croix;
- (e) voyages under Part IV of this Act (which relates to native passenger ships) from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the Protected Native States adjoining the Straits Settlements, to Australia and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

(2) This section shall not come into operation until His Majesty's pleasure thereon has been publicly signified by notification in the *Gazette of India*.

(3) On such signification of such pleasure, the Indian Sea Passengers Act, 1885, shall be repealed.

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PART IV.

NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

Application of
Part.

147. (1) This Part applies—

Act X of
1857, s. 2.
Act XIV of
1895, s. 2.

- (a) to all subjects of His Majesty within the dominions of Princes and States in India;
- (b) to all Indian subjects of His Majesty without and beyond British India.

(2) But the provisions of this Part relating to native passenger ships do not apply—

- (a) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa,

(b) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India, or

(c) to any ships to which the provisions of the Inland Steam Vessels Act, 1917, are applicable. I of 1917

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor-General in Council, declare all or any of the provisions of this Part relating to native passenger ships to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such persons.

Power to exempt ships from provisions of Part IV.

148. (1) The Local Government, with the previous sanction of the Governor-General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Part relating to native passenger ships. Act X of 1887, s. 57.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Definitions.

149. In this Part, unless there is anything repugnant in the subject or context,— Act X of 1887, s. 5.

(1) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa or a child under one year of age; and, in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(2) "native passenger ship" means, save as otherwise provided in this Part, a ship carrying more than thirty native passengers;

(3) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz; but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India direct, that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim; Act XIV of 1895, s. 5(f).

Explanation I.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act;

Explanation II.—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be deemed to be a pilgrim for the purposes of this Part; Act XIV of 1895, s. 6.

(4) "pilgrim ship" means a ship conveying, or about to convey, pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez: Act XIV of 1895, s. 5 (2).

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act."

Explanation.—"A pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved;

(5) "voyage" means the whole distance between the ship's port or place of departure and her final port or place of arrival: Act XIV of 1895, s. 5 (3).

(6) "Chief Customs-Officer" means the chief executive officer of sea-customs in any port or place to which this Part applies. Act XIV of 1895, s. 5 (3).

General Provisions as to Native Passenger and Pilgrim Ships.

Places appointed by the Government.

150. (1) A native passenger ship shall not, nor shall a pilgrim ship, depart or proceed from, or discharge native passengers or pilgrims, as the case may be, at, any port or place within British India other than a port or place appointed in this behalf by the Local Government for native passenger ships or pilgrim ships, as the case may be. Act X of 1887, s. 6.
Act XIV of 1897, s. 7.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a native passenger or pilgrim, as the case may be, except at some other port or place so appointed.

Notice to be given of day of sailing.

151. (1) The master, owner or agent of a native passenger or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the Local Government, that the ship is to carry native passengers or pilgrims and of her destination and of the proposed time of sailing. Act X of 1887, s. 7.
Act XIV of 1895, s. 8.

(2) The notice shall be given—

(a) in the case of a native passenger ship, not less than twenty-four hours before that time;

(b) in the case of a pilgrim ship at the original port of departure if in British India, and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports not less than twenty-four hours, before that time.

Power to enter on and inspect ship.

152. After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board. Act X of 1887, s. 8.
Act XIV of 1895, s. 9.

Ship not to sail
without two
certificates.

153. (1) A ship intended to carry native passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the master holds two certificates to the effect mentioned in the two next following sections.

Act X of
1887, s. 9
Act XIV of
1895, s. 10.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it, unless the master holds those certificates.

Contents of
Certificate A.

154. The first of the certificates (hereinafter called "Certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and—

Act X of
1887, s. 10.
Act XIV of
1895, s. 11.

- (a) in the case of a native passenger ship, the number of passengers which she is capable of carrying;
- (b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

Contents of
Certificate B.

155. The second of the certificates (hereinafter called "Certificate B") shall state—

Act X of
1887, s. 11.
Act XIV of
1895, s. 12.

- (a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;
- (b) that she has the proper complement of officers and seamen;
- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;
- (d) that the master holds Certificate A;
- (e) in the case of a native passenger ship, if the ship is to make a short voyage, as hereinafter defined, in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;
- (f) in the case of a native passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner;
- (g) in the case of a pilgrim ship, that she is propelled principally by steam, and that she is of the tonnage and steam power (if any) prescribed;
- (h) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants; and

(i) such other particulars, if any, as may be prescribed for native passenger or pilgrim ships, as the case may be.

Supply by
passengers of
their own food.

156. If an officer appointed in this behalf by the Local Government is satisfied that a native passenger or pilgrim has brought on board a native passenger or pilgrim ship for his own use food of the quality and in the quantity prescribed, the requirements of this Part, respecting the supply of food for passengers or pilgrims, shall not apply so far as regards the supply of food for that passenger or pilgrim.

Act X of 1887,
s. 12.
Act XIV of
1895, s. 18.

Grant of certi-
ficates.

157. The person by whom Certificate A and Certificate B are to be granted shall be the officer appointed under section 151, who is hereinafter referred to as the certifying officer.

Act X of 1887,
s. 12.
Act XIV of
1895, s. 13.

Substitute for
Certificate A.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 136 and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a Certificate A for the purposes of this Part.

Act X of 1887,
s. 13.
Act XIV of
1895, s. 14.

Survey of ship.

159. (1) After receiving the notice required by section 151, the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed :

Act X of 1887,
s. 14.
Act XIV of
1895, s. 15.

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed, unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by the Local Government.

Discretion as to
grant of certi-
ficate.

160. The certifying officer shall not grant a certificate, unless he is satisfied that the ship has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the native passengers or pilgrims.

Act X of 1887,
s. 15.
Act XIV of
1895, s. 16.

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government and of any intermediate authority which that Government appoints in this behalf.

Copy of certificates to be exhibited.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Act X of 1817, s. 16.
Act XIV of 1895, s. 17.

Penalty for ship unlawfully departing or receiving passengers on board.

162. (1) If a native passenger or pilgrim ship departs or proceeds on a voyage from, or discharges native passengers or pilgrims at, any port or place within British India in contravention of the provisions of this Part, or if a person is received as a native passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every native passenger or pilgrim carried in the ship, or for every native passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both :

Act X of 1887, s. 31.
Act XIV of 1895, s. 37.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(2) The ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part, with all costs, has been enforced, under the provisions of this Part.

Penalty for opposing entry on or inspection of ships.

163. If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

Act X of 1887, s. 32.
Act XIV of 1895, s. 98.

Penalty for not exhibiting copy of certificates.

164. If the master or owner of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Act X of 1887, s. 33.
Act XIV of 1895, s. 39.

Penalty for fraudulent alteration in ship after certificate obtained.

165. If the master of a native passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her native passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Act X of 1887, s. 35.
Act XIV of 1895, s. 41.

Penalty for failing to supply native passengers or pilgrims with prescribed provisions.

166. If the master of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger or pilgrim the prescribed allowance of food, fuel and water as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every native passenger or pilgrim who has sustained detriment by the omission.

Act X of 1887, s. 36.
Act XIV of 1895, s. 42.

Penalty for having excessive number of passengers on board.

167. (1) If a native passenger or pilgrim ship has on board a number of native passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim:

Act X of 1887, s. 37.
Act XIV of 1895, s. 43.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorised in this behalf by the Local Government may cause all native passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for landing native passenger or pilgrim at a place other than that at which he has contracted to land.

168. If the master of a native passenger or pilgrim ship lands any native passenger or pilgrim at any port or place other than the port or place at which the native passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Act X of 1887, s. 39.
Act XIV of 1895, s. 44.

Penalty for making voyage in contravention of contract.

169. If a native passenger or pilgrim ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Act X of 1887, s. 40.
Act XIV of 1895, s. 45.

Information to be sent to ports of embarkation and discharge.

170. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a native passenger or pilgrim ship touches or arrives shall, with advertence to the provisions of this Part, send any particulars which he may deem important respecting the native passenger or pilgrim ship, and the native passengers or pilgrims carried therein, to the officer at the port or place from which the

Act X of 1887, s. 51.
Act XIV of 1895, s. 56.

ship commenced her voyage, and to the officer at any other port or place within British India where the native passengers or pilgrims or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of native passengers or pilgrims and other matters have been complied with.

Report
Consul.

of **171.** In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of His Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

Act X of
1887, s. 52.
Act XIV of
1895, s. 57.

Authority to
institute proceed-
ings for penalties.

172. The penalties to which masters and owners of native passenger and pilgrim ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Act X of
1887, s. 48.
Act XIV of
1895, s. 53.

Appointment of
officers.

173. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Act X of
1887, s. 51.
Act XIV of
1895, s. 60.

Special Provisions relating to Native Passenger Ships.

Definitions.

174. (1) "Long voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

Act X of
1887, s. 5.

(2) "Short voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

Power to de-
clare what shall
be deemed "sea-
sons of fair wea-
ther," "seasons of
foul weather"
and "long voy-
ages" and "short
voyages."

175. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Part relating to native passenger-ships, "seasons of fair weather" and "seasons of foul weather," and, for sailing-ships and steamships, respectively, a "long voyage" and a "short voyage."

Act X of
1887, s. 60.

Space to be
available for pas-
sengers.

176. (1) For seasons of fair weather, a native passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the

Act X of 1887
s. 18.

between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a native passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) In seasons of foul weather a native passenger ship shall not carry upper-deck passengers, unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

177. If a native passenger ship performing a short voyage takes additional native passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

Act X of 1887,
s. 19.

(a) the number of native passengers so taken on board, and

(b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed :

Provided that, if the Certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of native passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

Deaths on voyage.

178. When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the Local Government appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Act X of 1887,
s. 20,
Act XXXVII
of 1920.

Space to be available for passengers.

179. (1) A native passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger. Act X of 1887, s. 21.

(2) A native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

180. The master of a native passenger ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the native passengers, and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements. Act X of 1887, s. 22.

Deaths on voyage.

181. The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any native passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land native passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer thereat, or the certifying officer, if any, appointed there. Act X of 1887, s. 23.

Ship taking additional passengers at intermediate place.

182. (1) In either of the following cases, namely,— Act X of 1887, s. 24.

(a) if after the ship has departed or proceeded on a long voyage any additional native passengers are taken on board at a port or place within British India appointed under this Part for the embarkation of native passengers, or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of Certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Part with respect to Certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

183. (1) A ship carrying native passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam. Act X of 1887, s. 25.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both. Act X of 1887,
s. 41.

Certain ships to carry medical officer.

184. (1) A ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in the prescribed manner. Act X of 1887,
s. 26.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both. Act X of 1887,
s. 42.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

185. (1) A ship carrying native passengers from or to any port in British India other than Aden to or from any port in the Red Sea all touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health. Act X of 1887,
s. 27.

(2) If the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained a bill of health under this section, he shall, for every such offence, be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both. Act X of 1887,
s. 43.

(3) If, in the case of any such ship as is referred to in this section, the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part applicable to the ship, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both. Act X of 1887,
s. 44.

Bill of health at Aden.

186. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of native passengers than the number allowed for the ship by or under this Part, and may refuse to grant it if the requirements of any rule under this Part are not complied with on board the ship. Act X of 1887,
s. 28.

Bond where ship clears for port in Red Sea.

187. In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance, unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of five thousand rupees, conditioned— Act X of 1887,
s. 29.

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

- (b) that the master and medical officer (if any) of the ship shall, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

Power for Local Government to direct medical inspection of passengers.

188. (1) The Local Government may direct that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

Act X of 1887, s. 30.

(2) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

(3) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months, or to both.

Act X of 1887, s. 45.

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

189. If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177, or to report deaths as required by section 178, or to obtain any such fresh certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Act X of 1887, s. 34.

Penalty for bringing passengers from foreign port in excess of authorised number.

190. If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees.

Act X of 1887, s. 38.

Power for Governor General in Council and Local Government to make rules.

191. (1) The Governor General in Council may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships, all or any of the following matters, namely:—

Act X of 1887, s. 53.

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any any class or classes of passengers, and the quality of the food, fuel and water;

- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (c) the licensing and appointment of medical officers in cases where they are required by this Part to be carried ;
- (d) the boats, anchors and cables to be provided on board ;
- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper-deck ; and,
- (j) generally, to carry out the purposes of this Part.

(2) The Local Government may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships,— Act XXXVIII of 1920, s. 2.

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Power to prescribe space to be available for passengers.

192. The Governor General in Council may by order prescribe, in the case of any native passenger ship or class of such ships and for all or any voyages, the number of superficial or of cubic feet of space to be available for native passengers ; and the order shall be alternative to, or override, as the Governor General in Council may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships. Act x of 1887, s. 56.

Special Provisions regarding Pilgrim Ships.

Space to be
provided for
pilgrims.

193. (1) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under this Act) to be available in the between-decks for pilgrims of each class, respectively, on board pilgrim ships.

Act XIV of
1895, s. 19.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper-deck as is not required for the airing space of the crew or for permanent structures:

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit:

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

Disposal of
pilgrims'
baggage.

194. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Act XIV of
1895, s. 20.

Hospital
accommodation.

195. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent., of the pilgrims embarked, as may be prescribed.

Act XIV of
1895, s. 21.

Statement
concerning
pilgrims to be
delivered before
ship departs.

196. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement, in duplicate, in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer, who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Act XIV of
1895, s. 22.

Deaths on
voyage.

197. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination, or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of His Majesty at the port or place or to the Chief Customs-officer thereat or the certifying officer (if any) appointed there.

Act XIV of
1895, s. 23.

Pilgrim ship taking additional pilgrims at intermediate place.

198. (1) In either of the following cases, Act XIV of 1895, s. 24.
namely:—

(a) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or

(b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of Certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate, in the prescribed form, respecting such additional pilgrims.

(2) All the foregoing provisions of this Part with respect to Certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

Statement concerning pilgrims to be delivered before pilgrims disembark in British India.

199. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat. Act XIV of 1895, s. 25.

Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.

200. (1) Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed. Act XIV of 1895, s. 26.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both. Act XIV of 1895, s. 46.

Certain pilgrim ships to carry medical officers and attendants.

201. (1) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed. Act XIV of 1895, s. 27.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both. Act XIV of 1895, s. 47.

Medical officers' diaries and reports.

202. The medical officer or officers of every pilgrim ship shall keep such diaries, and shall submit such reports or other returns, as may be prescribed. Act XIV of 1895, s. 28.

Pilgrim ships to touch at Aden on the outward voyage.

203. (1) Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden, and shall not leave that port without having obtained from the proper authority a certificate stating whether any cases of cholera has or has not occurred on board since the ship left the port of last departure. Act XIV of 1895, s. 29.

(2) If the master of any such ship, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained the certificate required by this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Act XIV
1895, s. 48.

When authority
at Aden may
refuse to let ship
leave.

204. The authority at Aden empowered to grant the certificate required under section 203 may refuse to permit the ship to leave that port if the provisions of this Part or any rule thereunder are not complied with on board such ship.

Act XIV of
1895, s. 30

Bond where
pilgrim ship
proceeds on out-
ward voyage.

205. In the case of every pilgrim ship proceeding from any Port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance, unless or until the master, owner or agent and two sureties resident in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond for the sum of five thousand rupees, conditioned—

Act XIV of
1895, s. 31.

(a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 203, and

(b) that the master and medical officer or officers (if any) shall comply with the provisions of this Part and the rules thereunder.

Medical inspection
and permission
required
before embarkation
of pilgrims.

206. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India, unless and until he has been medically inspected at such time and place, and in such manner, as the Local Government may fix in this behalf, nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

Act XIV of
1895, s. 32.

(2) If in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated, shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed.

(4) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

Act XIV of
1895, s. 49.

Medical inspection after embarkation in certain cases.

207. (1) If in any case a pilgrim ship does not proceed on her voyage within forty-eight hours after all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

Act XIV of 1895, s. 33.

(2) If, on such inspection any person is found to be suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article so kept on board, or to imprisonment which may extend to three months, or to both.

Act XIV of 1895, s. 49.

Medical inspection of women.

208. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Act XIV of 1895, s. 34.

Issue and production of tickets and refund of passage-money.

209. (1) Every pilgrim shall be entitled, on payment of his passage-money and fulfilment of the other prescribed conditions (if any), to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

Act XIV of 1895, s. 35.

(2) Every pilgrim prevented from embarking under section 206 or removed from the ship under section 207, or otherwise prevented from proceeding, shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

Sanitary taxes payable by master of pilgrim ship.

210. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Act XIV of 1895, s. 36.

Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.

211. If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate, or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Act XIV of 1895, s. 40.

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

212. If the master or the medical officer (if any) of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Act XIV of 1895, s. 50.

Power for
Governor-General
in Council and
Local Govern-
ment to make
rules.

213. (1) The Governor General in Council may make rules to regulate all or any of the following matters, namely,—

Act XIV of
1895, s. 58.

- (a) the boats, anchors and cables to be provided on board pilgrim ships;
- (b) the instruments for purposes of navigation to be supplied;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;
- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims;
- (f) the scale on which, and manner in which, food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water;
- (g) the quality, quantity and storage of the cargo to be carried;
- (h) the allotment of the upper-deck space between the various classes of pilgrims;
- (i) the amount and distribution of the baggage of pilgrims;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
- (k) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein;
- (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship;
- (o) the manner in which, and the persons by whom, the medical inspection of women shall be carried out;
- (p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof;

- (q) the refund of passage-money to intending pilgrims who may not be permitted to embark, or who, having embarked, may be removed from the ship under the powers conferred by this Part, or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship ;
- (r) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; and,
- (s) generally, to carry out the provisions of this Part relating to pilgrim ships.
- (2) The Local Government may make rules consistent with this Act to regulate—
- (a) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf ; and
- (b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.
- (3) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.
- (4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Act IV of
1914, Sch.,
Part I.

PART V.

SAFETY.

Prevention of Collisions.

Appointment of
inspectors of
lights and fog-
signals.

214. (1) The Local Government may appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

Act VII of
1880, s. 81.
M. S. A.,
s. 420.

(2) Every person so appointed shall, in the port for which he is appointed, have, for the purposes of such inspection, the following powers:—

Act VII of
1880, s. 11.

- (a) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;

(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Notice of deficiency to be given to master or owner by such inspectors.

215. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Act VII of 1880, s. 82. M. S. A., s. 420 (I).

Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

216. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

Act VII of 1880, s. 83.

Draught of Water and Load-line.

Marking of deck-lines.

217. (1) Save as otherwise provided in this Act, every ship, British or foreign, while in any port in British India shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

Act VII of 1880, ss. 33 and 85, as amended by Act XVII of 1891, s. 4, and Act XVIII of 1908, s. 4. M. S. A., s. 437.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plant next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

(4) In this Part the expression "amidships" means the middle of the length of the loadwater-line as measured from the fore side of the stem to the aft side of the stern-post. *

Marking of load-lines.

218. (1) Save as otherwise provided in this Act, the master of every ships, British or foreign, while in any port in British India shall, before the time hereinafter mentioned, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

*Act VII of 1880, ss. 34, 86 and 85, as amended by Act XVII of 1891, s. 4, and Act XVIII of 1908, s. 4. M. S. A., s. 438.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, as may be approved by the Local Government, and shall indicate the maximum load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) The position of the disc shall be fixed in accordance with the tables used from time to time by the Board of Trade, subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Part, or of the Merchant Shipping Acts, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof, as may from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government.

Act VII of
1880, s. 39.

(4) Any load-line marked under the Merchant Shipping Acts or under any enactment of any British Possession regarding which an Order in Council under section 444 of the Merchant Shipping Act, 1894, exists, and any certificate given in pursuance of these Acts or any such enactment in respect of such marking, shall have the same effect as if it had been marked or given in pursuance of this Part.

Act VII of
1880, s. 43.

57 & 58
Vict., G. 60.

Ships with submerged load-lines deemed unsafe.

219. If any ship, British or foreign, while in any port in British India, is so loaded as to submerge in perfectly smooth salt-water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereinafter contained in this Part.

Act XVII
of 1908, s. 3.
M. S. A.,
s. 439.

Time of marking load-line in case of foreign-going vessels.

220. (1) When any British or foreign-going ship proceeds on any voyage from a port in British India for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

Act VII of
1880, s. 34
(1).
M. S. A.,
s. 440.

(2) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

Act VII of
1880, s. 35.

(3) The master of every British or foreign-going ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew for any such ship until this entry has been made.

Act VII of
1880, s. 35.

(4) The master of every British or foreign-going ship shall enter a copy of this statement in the official log-book (if any).

(5) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

Act VII of
1880, s. 34
(3).

Time for marking load-line in case of coasting vessels.

221. (1) When a ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878, is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port.

Act VII of 1880, s. 36 (1).
M. S. A., s. 441.
VIII of 1878.

(2) The master shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs, of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

Act VII of 1880, s. 37.

(3) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(4) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

Act VII of 1880, s. 36(3).

(5) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

Penalty for offences relating to marking of load-line.

222. (1) If—

(a) any master of a ship neglects to cause his ship to be marked as by this Part required, or to keep her so marked, or allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged, or

Act VII of 1880, ss. 41 and 42.
M. S. A., s. 442.

(b) any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the lines or marks prescribed by or under this Part, except in the event of the particulars thereby denoted being lawfully altered, or for the purpose of escaping capture by an enemy.

he shall be liable in respect of each such offence to a fine which may extend to one thousand rupees.

(2) The master of any ship on which any of the marks or lines prescribed by or under this Part is inaccurately placed so as to be likely to mislead, who does not forthwith cause such inaccuracy to be corrected, shall be liable to a fine which may extend to one thousand rupees.

Power to appoint officer to certify position of disc.

223. The Local Government shall appoint—

(a) a surveyor employed by Lloyd's or by any other society, corporation or association for the survey or registry of shipping approved by the Board of Trade under section 443 of the Merchant Shipping Act, 1894, and specially authorised in this behalf by Lloyd's or by such society, corporation or association, as the case may be, or

Act VII of 1880, s. 39 (2).
M. S. A., s. 443.

57 & 58
Vict., C. 60.

(b) an officer specially selected by the Local Government for the purpose,

to approve and certify on its behalf from time to time the position of any disc indicating the load-line, and any alteration thereof, and may, with the previous sanction of the Governor General in Council, fix the fees to be taken in respect of any such approval or certificate.

Power to make rules.

224. The Local Government, with the previous sanction of the Governor General in Council, may make rules—

Act VII of 1880, s. 40, amended by Act XVII of 1891, s. 4. M. S. A., s. 448 (2).

- (a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Part are to have effect as if any such line were drawn through the centre of the disc;
- (b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;
- (c) as to the mode of application for, and form of, certificates under this Chapter; and
- (d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

- (i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and
- (ii) modify the tables referred to in sub-section (3) of section 218.

Grain-Cargoes.

Stowage of cargo of grain, etc.

225. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nut-kernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship, unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

Act VII of 1880, s. 32. M. S. A., s. 452.

Penalty for improper stowage of such cargo.

226. If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

Savings.

Saving for certain ships.

227. Nothing in the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines shall apply to—

Act VII of 1880, s. 85, as amended by Act XVIII of 1908, s. 4.
Act VII of 1880, s. 3.
Act XVIII of 1908, s. 4.

- (i) any sailing-ship of less than one hundred and fifty tons employed in plying coastwise between ports situated in India and Ceylon;
- (ii) any ship of less than one hundred and fifty tons solely employed in fishing;
- (iii) and pleasure yacht;
- (iv) any foreign ship not bound to a port in British India for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal;
- (v) any foreign ship which, if in a port of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

Power to exclude or re-include certain classes of ships.

228. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within the operation of, all or any of the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines, subject to such modifications thereof (if any) as may be specified in the notification, any native craft not square-rigged.

Act XVII of 1891, s. 2.

(2) The Governor General in Council may, by notification in the Gazette of India, exclude from, or bring again within the operation of, the provisions of this Part relating to the marking of deck and load-lines any steam-ships of less than one hundred and fifty tons which are employed in plying coastwise between ports situated in India and Ceylon and do not carry cargo.

Act XVIII of 1908, s. 2.

Unseaworthy Ships.

Every person sending unseaworthy ship to sea liable to penalty.

229. (1) Every person who sends or attempts to send a British ship to sea from any port in British India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

Act VII of 1880, s. 5.
M. S. A., s. 457.

(2) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Unseaworthy ships.

230. A ship is "unseaworthy" within the meaning of this Part when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo, the tackle, sails, rigging, stores, ballast and other equipment are not such as to render her in every respect fit for the proposed voyage or service.

Act VII of 1880, s. 4.

Obligation of owner to crew with respect to seaworthiness.

231. (1) In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

Act VII of 1880, s. 6. M. S. A., s. 458.

(2) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of Unsafe Ships by the Local Government.

Power to detain unsafe ship and procedure for detention.

232. (1) Where a British ship in any port to which the Local Government may specially extend this section is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed and either finally detained or released as follows, namely:—

Act VII of 1880, s. 7. M. S. A., s. 459.

- (a) The Local Government, if it has reason to believe, on complaint or otherwise, that any such ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b) A written statement of the grounds of such detention shall be forthwith served on the master of such ship.
- (c) When the Local Government provisionally orders the detention of a ship, it shall either refer the matter to the Court of Survey for the port where the ship is detained, or forthwith appoint some competent person to survey such ship and report thereon; and, on receiving his report, may either order

Act VII of 1880, ss. 8 and 10.

the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained, either absolutely or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection of human life.

- (d) Before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.

- (e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or, if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.

Act VII of
1880, s. 9.
M. S. A.,
s. 459 (e).

- (f) Where a ship has been provisionally detained, the Local Government may, at any time if it thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.

- (g) The Local Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

Act VII of
1880, s. 44.

- (2) Any person appointed by the Local Government for the purpose (in this Act referred to as a "detaining-officer") shall have the same power as the Local Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

Act VII of
1880, s. 12.

- (3) A detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

- (4) A ship detained under this section shall not be released by reason of her British or British Indian register being subsequently closed.

Act VII of
1880, s. 48.

(5) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely:—

- (a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;
- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;
- (c) he may require and enforce the production of all books, papers or documents which he considers important; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Costs of Detention and Damages incidental thereto.

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Government for costs and damages when ship wrongly detained.

Act VII of 1880, s. 27.
M. S. A., s. 460 (1).

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Liability of ship-owner for costs when ship rightly detained.

Act VII of 1880, s. 28.
M. S. A., s. 460 (2).

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Local Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

What included in costs of detention and survey.

Act VII of 1880, s. 29.
M. S. A., s. 460 (3).

236. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Power to require from complainant security for costs, etc.

Act VII of 1880, s. 30.
M. S. A., s. 461.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious,

such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

Costs, etc., payable by Government recoverable from complainant.

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Part to pay to the owner of the ship any costs of compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Act VII of 1880, s. 31
M. S. A.,
s. 461(3).

Application to foreign ships of provisions as to detention.

238. When a foreign ship is in a port in British India and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely:—

Act VII of 1880, new s. 85, substituted by Act XVIII of 1908, s. 4.
M. S. A.,
s. 462.

- (i) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;
- (ii) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Local Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly; but, if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and
- (iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government.

Delegation of powers to Port Commissioners, etc.

239. (1) The Local Government may, from time to time, by notification in the local official Gazette, delegate, either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Part, except the power of making rules.

Act VII of 1880, s. 53.

(2) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or

from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount of any cost or damages so recovered to or from the funds held by them in trust as such body.

Installation of Wireless Telegraphy.

Commencement. **240.** The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in British India shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct. Act XLI of 1920, s. 1 (3).

Definitions. **241.** In the provisions of this Part relating to the installation of wireless telegraphy "passenger steamer" means a steam-ship which carries more than twelve passengers. Act XLI of 1920, s. 2.

Wireless telegraphy requirements. **242.** (1) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards, shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed: Act XLI of 1920, s. 3.

Provided that the Governor General in Council may, by notification in the Gazette of India, exempt from the obligations imposed by this section any ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

Appointment and powers of wireless telegraphy inspectors. **243.** (1) The Governor General in Council may appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship. Act XLI of 1920, s. 4.

(2) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship.

(3) If a wireless telegraphy inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port-clearance, who shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

Application to ships other than British ships registered in British India.

244. The provisions of this Part relating to wireless telegraphy shall, as from a date three months after the coming into force of those provisions, apply to ships other than British ships registered in British India while they are within any port in British India in like manner as they apply to British ships registered in British India.

Act XLI of 1920, s. 5.

Power to make rules.

245. (1) The Governor General in Council may make rules to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

Act XLI of 1920, s. 6.

(2) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

- (a) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried;

Provided that no ship shall be required to carry more than one operator, unless more than one operator would have been required under the provisions of the Merchant Shipping (Convention) Act, 1914;

- (b) the manner in which a notice given under sub-section (3) of section 243 shall be communicated to the Chief Officer of Customs.

4 and 5 Geo V, c. 60.

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

Shipping casualties and report thereof.

246. (1) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

Act V of 1885, s. 6, amended by Act VI of 1891, s. 9, and Act XII of 1891. M. S. A., s. 464.

- (a) on or near the coasts of British India, any ship is lost, abandoned, stranded or materially damaged;

- (b) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts;

- (c) on or near those coasts any ship causes loss or material damage to any other ship;

(d) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in British India; or

(e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of.

(2) In sub-section (1) the word "coasts" includes the coasts of creeks and tidal rivers, Act VI of 1891, s. 9.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and Act V of 1883, s. 6 (2).

in cases under clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of loss) where the ship concerned proceeds to any place in British India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the shipping casualty to the nearest Magistrate or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port.

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

Report of ship
ping casualties to
the Local Govern-
ment.

247. (1) Whenever any Magistrate or any officer appointed by the Local Government in this behalf receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Local Government. Act V of 1883, s. 6.

(2) Any such Magistrate or officer—

(i) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not necessarily detaining or delaying her from proceeding on any voyage; Act V of 1883, s. 6 (d), added by Act VI of 1891, s. 9 M.S.A., ss. 465 and 729.

(ii) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

(iii) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(iv) may require and enforce the production of all books, papers or documents which he considers important for such purpose; and

- (v) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Power for Local Government to appoint special Court of Investigation.

248. (1) If the Local Government to which the report prescribed by the last foregoing section has been made, or within whose territories any competent witnesses of any shipping casualty have arrived or are to be found, or any evidence thereof can be obtained, is of opinion that a formal investigation into the shipping casualty is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.

Act V of 1883, s. 7.
Act VI of 1891, s. 10.
M. S. A., s. 466.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Power for other Courts to hold investigations into casualties when so directed.

249. Every Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no such Court is hereby authorized, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, to make a formal investigation into a shipping casualty.

Act V of 1883, s. 8, Act VI of 1891, s. 11.

Power for Court of Investigation to inquire into charges against masters, mates and engineers.

250. (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

Act V of 1883, s. 9.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

251. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Local Government—

Act V of 1883, s. 10, M. S. A., ss. 471 and 478.

- (a) if the master, mate or engineer holds a certificate under this Act, in any case,
- (b) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases:—
 - (i) where the incompetency or misconduct has occurred on a British ship on or near the coasts of British India, or on board a British ship in the course of a voyage to a port within the colony,

- (ii) where the incompetency or misconduct has occurred on board a British ship registered in British India,
- (iii) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship, is found in British India,

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person accused
to be heard.

252. For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Act V of
1883, s. 11.

Powers of
Courts as
evidence
regulation
Proceedings.

253. For the purpose of any investigation under this Part, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

Act V of
1883, s. 12.

- (a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;
- (b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exercisable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors.

254. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant service; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

Act V of
1883, s. 13
M. S. A.,
s. 466.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

Power to arrest
witnesses and
cave entry and
detention of
vessels.

255. (1) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

Act V of
1883, s. 14.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to
commit for trial
and bind over
witnesses.

256. (1) Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Act V of
1883, s. 15

Report by
Court to Local
Government.

257. (1) The Court shall, in the case of all investigations under this Part, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

Act V of
1883, s. 4.
M. S. A.,
s. 470 (3).

(2) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

Suspension and Cancellation of Certificates and Grant of fresh Certificates.

Saving of
power to cancel
and suspend
certificates and
remove master
under English
Acts.

258. Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts, on the Courts conducting investigations under this Part, to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the Merchant Shipping Act, 1894.

Act V of
1883, s. 18.
57 & 58
Vict., c. 50.
Cf. Act I of
1859, s. 80.

Power to issue
local certificates
in lieu of cancelled
or suspended
certificates.

259. (1) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

Act V of
1883, s. 19

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

Power for Local Government to suspend or cancel certificates in certain cases.

260. (1) Any certificate which has been granted by any Local Government to any master, mate or engineer may be suspended or cancelled by that or any other Local Government in the following cases, that is to say:—

Act V of 1883, s. 20.

- (a) if, on any investigation made under the Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;
- (b) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and
- (c) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force.

M. S. A., s. 470 (1).

M. S. A., s. 469.

57 & 58 Vict., c. 60.

(2) Notwithstanding anything contained in this Act, the Local Government may, at any time, without any formal investigation, suspend or cancel any engine driver's certificate granted by it if, in its opinion, the holder is, or has become, unfit to act as an engine driver.

Act VII of 1884, s. 28.

Report to other Local Governments.

261. If the Local Government which cancels or suspends a certificate of a master, mate or engineer is not the Local Government by or under the authority of which the same was granted, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to that Local Government.

Act V of 1883, s. 22.

Report to Board of Trade.

262. Every Local Government cancelling or suspending under section 260 the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

Act V of 1883, s. 23.

Power to revoke cancellation or suspension and grant new certificate.

263. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 260, or grant, without examination to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

Act V of 1883, s. 24.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

Power of Court of Investigation or inquiry as to certificates granted by a Local Government.

264. (1) A certificate of a master, mate or engineer which has been granted by a Local Government under this Act may be cancelled or suspended—

Act V of 1883, s. 24-A (1), inserted by Act VI of 1891, s. 13, M. S. A., s. 470.

(a) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;

(b) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancelment or suspension of any certificate.

Act V of 1883, s. 24-A (2) and (3).

(3) When the Court cancels or suspends a certificate, the Court shall forward it to the Local Government, together with the report which it is required by this Part to transmit to that Government.

(4) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

Act V of 1883, s. 24-A (1), proviso and (5).

(5) The duties imposed and powers conferred by sections 261, 262 and 263 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3) as if such Local Government had itself cancelled or suspended the certificate under section 260.

Power to remove master and appoint a new master.

265. (1) The principal Court of ordinary criminal jurisdiction at any port in British India, where there is no Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

Act I of 1859, s. 80, Act V of 1883, s. 4 (2), Act XVI of 1891, s. 4 (2), M. S. A., s. 472.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but, where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

Delivery of
certificate can-
celled or suspend-
ed.

266. A master, mate or engineer whose certificate is cancelled or suspended by any Court or by the Local Government shall deliver his certificate—

Act V of
1883, ss. 21
and 24-A (4).
M. S. A.,
s. 473.

(a) if cancelled or suspended by a Court, to that Court;

(b) if cancelled or suspended by a Local Government, to that Local Government or to a shipping-master or other person appointed in this behalf by that Local Government.

(2) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

Investigations into Explosions.

Power to in-
vestigate causes
of explosions on
board steam-ships.

267. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Act VII of
1894, s.
37 (1) and
(2)

(2) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

Courts of Survey.

Constitution of
Court of Survey.

268. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

Act VII of
1880, ss. 13,
14 and 15.
M. S. A.,
s. 437 (1), (2)
and (3).

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(3) The assessors shall be persons of nautical engineering or other special skill or experience.

(4) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the local official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

Powers and
procedure of
Court of Survey.

269. (1) The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors to meet forthwith in the prescribed manner.

Act VII of
1880, s. 16.
M. S. A.,
s. 437 (4).

(2) The Court of Survey shall hear every case in open Court.

Act VI of
1880, s. 17.
M. S. A.,
438 (1).

(3) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

Act VII of
1880, s. 18.
M. S. A.,
s. 488 (2).

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Act VII of
1880, s. 19.
M. S. A.,
s. 488 (3).

(5) The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Act VII of
1880, s. 21.
M. S. A.,
s. 488 (5).

(6) The owner and master of the ship and any person appointed by the owner or master and also any person appointed by the Local Government, may attend at any inspection or survey made in pursuance of this section.

Act VII of
1880, s. 20.
M. S. A.,
s. 488 (6).

(7) The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Act VII of
1880, s. 22.
M. S. A.,
s. 488 (7).

Power of Local
Government to
make rules with
respect to Court
of Survey.

270. The Local Government may make rules to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

Act VII of
1880, s. 23.
Act
XXXVIII of
1920, s. 2.
M. S. A.,
s. 489.

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific Referees.

Reference in
difficult cases to
scientific persons.

271. (1) If the Local Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

Act VII of
1880, s. 24.
M. S. A.,
s. 490.

(2) The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

Act VII of
1880, s. 25.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

Act VII of
1880, s. 26.

PART VII.

WRECK AND SALVAGE.

"Wreck" defined.

272. In this Part "wreck" includes the following when found in the sea or any tidal water or on the shores thereof:—

Act VII of
1880, s. 71.
M. S. A.,
s. 510

- (a) goods which have been cast into the sea and then sink and remain under water;
- (b) goods which have been cast or fall into the sea and remain floating on the surface;
- (c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;
- (d) goods which are thrown away or abandoned; and
- (e) a ship abandoned without hope or intention of recovery.

Appointment of receivers.

273. (1) The Local Government may, by notification in the local official Gazette, appoint such person as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may prescribe.

Act VII of
1880, s. 73.
Act
XXXVIII
of 1920, s. 2.
M. S. A.,
s. 566.

(2) Persons so appointed shall be called receivers of wreck.

Rules to be observed by person finding wreck.

274. (1) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

Act VII of
1880, s.
74 and 79.
Act VI of
1891, s. 7.
Cf. M. S. A.,
s. 518.

- (a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;
- (b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(2) Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by sub-section (1) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed, to the Government, a penalty not exceeding twice the value of such wreck.

Government or person finding wreck entitled to salvage.

275. (1) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

Act VII of
1880, s. 75.
M. S. A.,
s. 546.

(2) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

Notice to be given by receiver.

276. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Act VII of 1880, s. 76.
Cf. M. S. A., s. 520.

Wreck may in certain cases be sold.

277. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Act VII of 1880, s. 77.
Cf. M. S. A., ss. 521—522.

Proceeds how applied.

278. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Act VII of 1880, s. 78.

Provided that he makes his claim within one year from the date of the sale.

279. Nothing in this Part shall be deemed to—
Savings.

Act VII of 1880, s. 72, amended by Act VI of 1891, s. 6, and Act XII of 1891.

(a) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

(b) affect section 29 of the Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

XV of 1908.

PART VIII.

LEGAL PROCEEDINGS.

Certain persons to be deemed Public Servants.

280. The following persons shall be deemed to be public servants within the meaning of the Indian Penal Code, namely:—

Act VII of 1880, s. 50.
Act V of 1883, s. 6 (4).
Act VII of 1884, ss. 9 (3) and 27 (3).
Act XII of 1920, s. 7.
M. S. A., s. 696 (2).

- (a) Every surveyor appointed under this Act.
- (b) Every judge, assessor or other person acting under Part VI.
- (c) Every person appointed under this Act to report information as to shipping casualties.
- (d) Every person authorised under this Act to make any investigation under Part VI, and all persons whom he calls to his aid.
- (e) Every person directed to make an investigation into an explosion on a steamship under section 267.
- (f) Every Wireless Telegraphy Inspector appointed under this Act.

XLV of 1860.

Jurisdiction of
Magistrates.

281. No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Act I of 1859,
s. 112.
Act VII of
1884, s. 38.
Act X of 1887,
ss. 5 (7) and
6 (1).

Place of trial of
the offender.

282. Any person committing any offence against this Act or any rule thereunder, may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the local official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Act VII of
1880, s. 84.
Act VII of
1884, s. 89.
Act X of
1887, s. 47.
Act XIV of
1896, s. 52.
Cf. M. S. A.,
s. 684.

Depositions to be
received in
evidence when
witnesses cannot
be produced.

283. (1) Whenever in the course of any legal proceeding under this Act instituted at any place in British India before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be) after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in His Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British consular officer, if elsewhere, shall be admissible in evidence—

Act I of 1859,
s. 111.
Act V of
1883, s. 18.
Act X of
1887, s. 50.
Act XIV of
1896, s. 55.
M. S. A.,
s. 691.

- (a) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made;
- (b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;
- (c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

Enforcing
detention of
ship.

284. (1) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the Royal Indian Marine Service, or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

Act VII of
1880, s. 45.
M. S. A.,
s. 692.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

Act VII of
1880, s. 46.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

Act VII of
1880, s. 47.

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

Levy of wages,
etc., by distress
of moveable
property.

285. When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

Act I of
1859, s. 56.

Levy of wages,
fines, etc., by
distress of ship.

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Act I of
1859, s. 113.
Act VII of
1884, s. 40.
Act X of
1887, s. 46,
(2).
Act XIV of
1895,
s. 51 (2).
M. S. A.,
s. 693.

Service of
documents.

287. Where for the purposes of this Act any document is to be served on any person, that document may be served—

Act VII of
1880,
ss. 51 and 52.
M. S. A.,
s. 695.

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship, where there is no master and the ship is in British India, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in British India, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Application of
fines.

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained

Act X of -
1887, s. 49.
Act XIV of
1895,
s. 54.
M. S. A.,
s. 699 (1).

by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

PART IX.

SUPPLEMENTAL.

Powers to see Act is complied with.

289. (1) Where a shipping-master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

Act I of 1859, s. 30. M. S. A., s. 723.

(a) enter on board any British ship, and

(b) muster and examine the crew.

(2) If any person obstructs any shipping master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

Ship Surveyors.

Power to appoint examiners and to make rules as to qualifications of ship surveyors.

290. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and subject to the control of the Governor General in Council, make rules—

Act VII of 1880, s. 68, amended by Act XII of 1891.

(a) for the conduct of such examinations and the qualifications to be required,

(b) for the grant of certificates to qualified persons,

(c) for the fees to be paid for such examinations and certificates,

(d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(e) for the suspension and cancellation of such certificates.

No person to practice as ship surveyor unless qualified.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290 exercise such profession in such port unless he holds a certificate granted under that section:

Act VII of 1880, s. 69.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.

Penalty for practising as ship surveyor without certificate.

292. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fees or reward for anything done by him.

Act VII of 1880, s. 70.

Powers of person appointed or authorised to survey ship.

293. Any person appointed or authorised under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Act VII of 1880, s. 49.

294. All rules made under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Act VII of 1880, ss. 23, 40, 67 and 68.
Act VII of 1884, s. 42.
Act X of 1887, s. 53 (2) and (4).
Cf. Act I of 1887, s. 6.

Protection to persons acting under Act.

295. No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Act XL of 1920, s. 8.

Repeal.

296. (1) The enactments mentioned in Schedule V are hereby repealed to the extent specified in the fourth column thereof.

(2) Any body constituted, and any office established under any enactment hereby repealed shall continue and be deemed to have been constituted, or established, as the case may be, under this Act.

(3) The mention of particular matter in this section shall not be held to prejudice or affect the general application of the provisions of the General Clauses Act, 1897, with regard to the effect of repeals.

X of 1897.

SCHEDULE I.

(See section 9.)

TABLE A.

FEES TO BE CHARGED FOR MATTERS TRANSACTED AT SHIPPING OFFICES.

Act I of 1859, Tables A & B.

1. Engagement or discharge of crews:—

			Rs. A.
In ships under	100 tons	...	3 0
From 100 to	200 "	...	7 0
200 to	300 "	...	10 0
300 to	400 "	...	12 8
400 to	500 "	...	15 0
500 to	600 "	...	17 8
600 to	700 "	...	20 0
700 to	800 "	...	22 8
800 to	900 "	...	25 0
900 to	1,000 "	...	27 8
above	1,000 "	...	30 0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen separately—one rupee for each seaman.

TABLE B.

SUMS TO BE DEDUCTED FROM WAGES BY WAY OF
PARTIAL REPAYMENT OF FEES IN TABLE A.

Rs. A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge—

From wages of any mate, purser, engineer, surgeon, carpenter or steward ...	0 12
From wages of all others except apprentices ...	0 8

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge ... 0 8

SCHEDULE II.

(See section 131.)

*Rates of Fees payable in respect of Survey of
Steam-ships.*

	Tons	Rs.
For steam-ships of less than 200	200	40
" " 200 tons and up to 350	350	50
" " 350 " " 700	700	60
" " 700 " " 1,000	1,000	80
" " 1,000 " " 1,500	1,500	100
" " 1,500 „ and upwards ...		120

Act VII of
1884 (amended
by Act III of
1890, s. 22).
Cf. M. S. A.,
Schedule 9.

SCHEDULE III.

(See section 146.)

PART I.

(Applied sections of the Merchant Shipping Act, 1894.)

Expenses of
rescue and
conveyance of
wrecked
passengers.

332. If any passenger, whether a cabin or a steerage passenger, is either taken off any ship, which is carrying any steerage passenger on a voyage from any part of His Majesty's dominions and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger, is picked up at sea from any boat, raft, or otherwise, it shall be lawful—

- (a) if the port to which such passenger (in this Act referred to as "wrecked passenger") is conveyed is in the United Kingdom, for a Secretary of State; and
- (b) if the port is in a British possession, for the Governor of that possession, or any person authorised by him for the purpose; and
- (c) if the port is elsewhere, for the British Consular Officer there;

to defray all or any part of the expenses thereby incurred.

Forwarding of
passengers by
Governors or
Consuls.

333. (1) If any passenger, whether a cabin or a steerage passenger from any ship which is carrying any steerage passengers on a voyage from any port in His Majesty's dominions, finds himself, without any neglect or default of his own, at any port outside the British Islands other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

- (a) if the place is in a British possession, for the Governor of that possession, or any person authorised by the Governor for the purpose; and
- (b) if the place is elsewhere, for the British Consular Officer there;

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period.

(2) A passenger so forwarded by or by the authority of, a Governor or a British Consular Officer shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage.

Recovery of
expenses incurred
in conveying
wrecked
passengers and
forwarding
passengers.

334. (1) All expenses incurred under this Part of this Act by, or by the authority of, a Secretary of State, Governor of a British possession, or Consular Officer, in respect of a wrecked passenger, or forwarding of a passenger to his destination, including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding, provisions, and stores, shall be a joint and several debt to the Crown from the owner, charterer, and master of the ship on board of which the passenger had embarked.

(2) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of a Secretary of State, Governor, or Consular Officer, and stating the circumstances of the case, and the total amount of the expenses, shall be admissible in evidence in manner provided by this Act, and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Act.

(3) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner, charterer, or master of the emigrant ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage who embarked in the ship.

Validity of
insurance
passage money.

335. A policy of assurance effected in respect of any steerage passage or compensation money by any person by this Part of this Act made liable, in the events aforesaid, to provide such passage or to pay such

money, or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance."

PART II.

FORM OF GOVERNOR'S OR CONSUL'S CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS SHIP-WRECKED, &C.

(See applied section 334 above.)

I hereby certify that, acting under, and in conformity with, the provisions of Part III of the Indian Merchant Shipping Act, 192 , I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a) and in forwarding to their destination passengers [including cabin-passengers (b),] who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (c).

Act XII of 1885, Schedule. Cf. M. S. A., Schedule 14, Form III.

And I further certify, for the purposes of Part of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act. Given under my hand this day of , 19

{ Governor of, &c. (or, as the case may be)
{ His Britannic Majesty's Consul at

(a) N.B.—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) N.B.—2. Omit words in brackets when necessary.

(c) N.B.—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

SCHEDULE IV.

(See section 279.)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.

The Government of Her Majesty the Queen of the United Kingdom of Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June 1879, by the following arrangements:—

Act VII of 1880, Schedule added by Act VI of 1881, s. 8.

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	Victoria.
The Dominion of	Queensland.
Canada.	Tasmania.
Newfoundland.	South Australia.
The Cape.	Western Australia.
Natal.	New Zealand :
New South Wales.	

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugene Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1889.

(L. S.) LYTTON.

(L. S.) E. SPULLER

SCHEDULE V.

(See section 296.)

ENACTMENTS REPEALED.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1850	XIX	The Apprentices Act, 1850.	Sections 5 and 7 so far as they have not been repealed. In section 10 the words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service" and the words "or registering officer." In sections 11, 12, and 20 the words "or registering officer."
1859	I	The Indian Merchant Shipping Act, 1859.	The whole so far as it has not been repealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First Schedule as relates to Act I of 1859.
1876	XIII	The Indian Merchant Seamen's Act, 1876.	The whole.
1880	VII	The Indian Merchant Shipping Act, 1880.	The whole so far as it has not been repealed.
1883	V	The Indian Merchant Shipping Act, 1883.	The whole except section 38.
1884	VII	The Indian Steam-ships Act, 1884.	The whole so far as it has not been repealed.
1887	X	The Native Passenger Ships Act, 1887.	The whole.
1890	III	The Indian Steam-ships Law Amendment Act, 1890.	The whole so far as it has not been repealed.
1891	VI	The Indian Merchant Shipping Law Amendment Act, 1891.	The whole so far as it has not been repealed.
1891	XII	The Amending Act, 1891.	So much of the Second Schedule as relates to the Indian Merchant Seamen's Act, 1876, the Indian Merchant Shipping Act, 1880, the Indian Merchant Shipping Act, 1883, and the Indian Steam-ships Law Amendment Act, 1890.
1891	XVII	The Deck and Load Lines Act, 1891.	The whole.
1895	XIV	The Pilgrim Ships Act, 1895.	The whole.

1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.
1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Steam-ships Law Amendment Act, 1890 and the Indian Merchant Shipping Law Amendment Act, 1891.
1900	VI	The Lower Burma Courts Act, 1900.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1883.
1902	III	The Indian Steam-ships (Amending and Validation) Act, 1902.	Section 3.
1906	VI	The Indian Merchant Shipping (Amendment) Act, 1906.	The whole.
1908	XVIII	The Indian Merchant Shipping (Amendment) Act, 1908.	The whole.
1909	I	The Indian Steam-ships Law Amendment Act, 1909.	The whole so far as it has not been repealed.
1914	IV	The Decentralisation Act, 1914.	So much of the Schedule, Part I, as relates to the Pilgrim Ships Act, 1895.
1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1859, the Indian Merchant Seamen's Act, 1876, the Indian Steam-ships Act, 1884, and the Deck and Load Lines Act, 1891.
1917	L	The Inland Steam-Vessels Act, 1917.	So much of Schedule II as relates to the Inland Steam-ships Law Amendment Act, 1890, and the Indian Steam-ships Law Amendment Act, 1909.
1919	XXV	The Indian Merchant Shipping Law (Amendment) Act, 1919.	The whole.
1920	I	The Indian Steam-ships (Amendment) Act, 1920.	The whole.
1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Indian Merchant Shipping Act, 1880, the Indian Steam-ships Act, 1884, and the Native Passenger Ships Act, 1887.
1920	XLI	The Indian Wireless Telegraphy (Shipping) Act, 1920.	The whole.

TABLES SHOWING DISTRIBUTION IN THE BILL OF SECTIONS OF ACTS REPEALED BY THE BILL.

Section of Act.	Clause of Bill.	REMARKS.
ACT I OF 1859.		
1 (repealed).	...	67
2	6	68
3	6 (3)	69
4	8	70
5	9 (1) (2)	71
6	9 (3)	72
7	10	73
8	7	74
9	15-16	75
10	15-21	76
11	16	77
12	17	78
13	11 (1), 12	79
14	14 (2)	80
15	18-19	81 (repealed)
16	20	82 (repealed)
17 (repealed).	...	83
18	24	84
19	25	85
20	26	86
21 (repealed).	...	87
22	30 (a) (α)	88
23	30 (1) (e), 30 (2)	89
24	30 (1) (g) and (h)	90
24A	31	91
25	9 (4)	92
26	32 (b)	93
27	32 (a)	94
28	27 (2)	95
29	33	96
30	289	97
31	22-34	98
32	22, 35, 32 (d)	99
33	37	100 (repealed)
34	36	101 (repealed)
35	61	102 (repealed)
36	52 (1)	103
37	52 (2)	104
38	53	105
39	54	106
40	54	107
41	42, 46	108
42	44, 45	109
43	43	110
44	49	111
45	51	112
46	48	113
47	55	114
48	56	115
49	57 (1)	116
50	57 (2)	117
51	58	118 (Definition of master).
52	59	119
53	47	120
54	51	121
55	63	122
56	285	123
57	64	124
58	65	125
59	66	126
60	67	127
61	68	128
62	69	129
63	70	130
64	85 (1) to (4)	131
65	85 (5)	132
66	86	133
ACT XIII OF 1876.		
1	...	134
2	2	135
3	71	136
4	119	137
5	40	138
6	106	139
7	117	140
8	116	141
9	90	142
10	51	143
ACT VII OF 1880.		
1	...	144
2	2	145
3	227	146
4	2, 217 (4), 230, 231 (1), 232 (1)	147

Covered by existing law.

Section of Act.	Clause of Bill.	REMARKS.	Section of Act.	Clause of Bill.	REMARKS.
5	229		81	214	
6	231		82	215	
7	232 (1)		83	216	
8	232 (1) (c) & (d)		84	282	
9	232 (e)		85	217, 218, 227, 238	
10	232 (1) (f)				
11	214, 232 (5)				
12	232 (2)				
13	268 (1)				
14	268 (2)				
15	268 (3), (4)				
16	269 (1)		1	...	
17	269 (2)		2	...	
18	269 (3)		3	2	
19	269 (4)		4	258	
20	269 (6)		5	4	
21	269 (5)		6	246, 247	
22	269 (7)		7	249	
23	270		8	249	
24	271 (1)		9	250	
25	271 (2)		10	251	
26	271 (3)		11	252	
27	233		12	253	
28	234		13	254	
29	235		14	255	
30	236		15	256	
31	237		16	282	
32	225, 226		17	257	
33	217		18	258	
34	218		19	259	
35	220 (2) (3) (4)		20	260	
36	221 (1) (5)		21	266	
37	221 (2)		22	261	
38		Drafting section not necessary.	23	262	
39	218 (3) 223		24	14(2), 263	
40	224		24A	264	
41	222 (1)		25		Drafting section.
42	222 (3)		26	27	
43	218 (4)		27	28 (1)	
44	232 (1) (g)		28	28 (2) (f), 28 (4)	
45	284 (1)		29	28 (2) (h)	
46	284 (2)		30	29	
47	284 (3) (4)		31	Repealed	
48		Drafting section not necessary.	32	72 (1) (2)	
49	293		33	72 (3)	
50	280		34	21	
51	287		35	16	
52	287		36	99	
53	239		37	5 (1)	
54	73, 74 (2)		38		Not repealed by Bill.
55	74				
56	75 (1)				
57	75 (2)				
58	76				
59	77 (1)				
60	77 (2)				
61	78				
62	79				
63	80				
64	81				
65	82				
66	83				
67	84				
68	290				
69	291				
70	292				
71	272				
72	279				
73	273				
74	274 (1)				
75	275				
76	276				
77	277				
78	278				
79	274 (2)				
80	4				

ACT V OF 1883.

ACT VII OF 1884.

Section of Act.	Clause of Bill.	REMARKS.	Section of Act.	Clause of Bill.	REMARKS.
26	200 (1)		ACT XVIII OF 1908.		
27	201 (1)		1	...	
28	202		2	228	
29	203 (1)		3	218	
30	204		4	216, 217, 224, 225, 236	
31	205		ACT I OF 1909.		
32	206		1	...	
33	207		2	Repealed.	
34	208		3	125	
35	209		4	144	
36	210		5	3	
37	162		ACT XXV OF 1919.		
38	163		1	...	
39	164		2	4	
40	211		3	4	
41	165		ACT I OF 1920.		
42	166		1	...	
43	167		2	a repealing section.	
44	168		3	143	
45	169		ACT XLI OF 1920.		
46	200 (2)		1	240	
47	201 (2)		2	241	
48	202 (2)		3	242	
49	206 (2), 206 (3)		4	243	
50	212		5	244	
51	286		6	245	
52	282		7	280	
53	172		8	295	
54	288				
55	283				
56	170				
57	171				
58	213				
59	Spent.				
60	173				
ACT III OF 1902.					
1	...				
2	Repealed.				
3	126				
4	Spent.				
ACT VI OF 1906.					
1	...				
2	30 (2)				
3	31				

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate as far as may be the Indian Acts relating to merchant shipping. The first Act now on the Indian Statute Book dealing with that subject was passed in 1838 and the last in 1920, and during this period of nearly a century, a large number of Acts have been from time to time enacted by the Legislature. The result is that the law has become increasingly difficult to refer to and the case for consolidation is very strong.

Attempts have been made on several occasions in the past to remedy this state of affairs. In 1867, again in 1882, and more particularly in the years 1893 to 1896, Bills attempting to effect a complete or partial consolidation were brought before the Legislature. These attempts failed for a variety of causes with which it is unnecessary to enter in detail, but a possible cause common to all was the fact that consolidation and amendment were undertaken at the same time. If, as seems probable, the effects to consolidate and amend at the same time were contributory to the failures in the past, such a course is not less undesirable in 1922, for the volume of the law to be dealt with is far greater and the legislative machinery is far more complex. The present Bill, therefore, does not attempt to go beyond consolidation and that not even of the whole of the law which is not feasible for reasons which will be dealt with later.

Any consolidating measure must, however, necessarily involve a consideration of the English Statute Law on the subject, for by the enactment of the Imperial Statute, the great Merchant Shipping Act of 1894, the powers of the Indian Legislature were both curtailed and extended. The Indian law has therefore to be brought into legal harmony with that enactment and its amending Acts. Save for this purpose and in the few unimportant respects, mostly necessitated by the lapse of time, which are referred to in the Notes on Clauses, no change of substance has been made intentionally.

2. The Bill is an imperfect consolidation of the law in one important respect. It leaves untouched the Indian law relating to the registration of ships. That law is contained in Act XIX of 1838 and Act X of 1841 and its amending Acts. The latter Acts were passed in virtue of Acts of Parliament which have been repealed, and though their provisions are saved there is no power to re-enact them even if it were desirable to do so. Whether they can now be repealed and the matter left to be dealt with by Part I of the English Merchant Shipping Act, 1894, which extends throughout the British Empire, or whether special provisions must be maintained to meet the case of country craft and other classes of shipping provided for by these Acts are matters which are beyond the scope of a consolidating Bill prepared under the auspices of the body which stands sponsor for the present measure.

3. The Bill has been prepared and considered by the Statute Law Revision Committee and they consider it a useful step towards the clarification of the Statute Book.

They do not, however, recommend it should be passed into law in its present shape. It is abundantly evident that numerous amendments of the law are called for, some of which they have indicated in the Notes on Clauses.

They would recommend that the passage of the present Bill should be suspended at some convenient stage in its consideration by the Indian Legislature, and that an amending Bill drawn to harmonize with this consolidating measure should, when all controversial points have been decided, be referred for amalgamation with the present Bill.

A. P. MUDDIMAN,

The 6th February 1922.

President, Statute Law Revision Committee.

Notes on Clauses.

• *Clause 2.*—The definitions of "effects" and "wages" are new. They have been inserted for purely drafting purposes, in order to shorten the language of the Bill and follow the definitions in the Merchant Shipping Act, 1894, section 742.

Clause 4.—This clause does not exactly reproduce the existing law. Section 114 of the Indian Merchant Shipping Act, 1859, section 5 of the Indian Merchant Shipping Act, 1883, and section 5(c) of the Indian Steamships Act, 1884, except from the operation of the provisions of those Acts, respectively, ships "belonging to His Majesty or the Government, etc." On the other hand, sections 3 and 80 of the Indian Merchant Shipping Act, 1880, except ships "belonging to, or hired by, Her Majesty or the Secretary of State for India in Council"; section 2 of the Native Passenger Ships Act, 1887, excepts ships of the Royal Navy and Indian Marine and "any other ship for the time being in the service of Her Majesty"; and the Indian Wireless Telegraphy (Shipping) Act, 1920, does not exempt any ships at all. As the exact amendment of the various provisions here noticed has, in the past, frequently been questioned, and as the Acts of 1859 and 1883 were amended in this respect in 1919, it seems possible that the provisions, as consolidated in the draft Bill, will be suitable and sufficient.

The Merchant Shipping Act, 1894, confers a special exemption in regard to ships belonging to a foreign State. The exemption in the English law, and the same is also probably true as regards India, rests on the general exemption consequent on the absolute independence of every sovereign authority under the international comity which induces every sovereign State to respect the independence and dignity of every other sovereign State as a consequence of which public property which is destined for the public use of a State is exempt from territorial jurisdiction. See the *Parlement Belles* (1890), 5 P. D. 197 C. A. As, however, the Indian Acts contain various exemptions, this clause reproduces in a generalised form the exemption of public ships of foreign States. There is a slight alteration in the law to which attention is drawn, in that Act X of 1887, section 2(2) (iii) confines the exemption to ships of war.

Clause 5 (1).—Section 262 of the Merchant Shipping Act, 1894, exempts pleasure yachts from certain requirements of the corresponding Part, and it seems probable that the same exemption should find place in the Indian law. The matter is one for an amending Bill.

Clause 5 (2).—This gives the widest scope possible to our Indian legislation having regard to section 261 of the Merchant Shipping Act, 1894. This part of the Bill fills up the lacunæ which the section in question leaves in the application of Part II of the Imperial Act. Sub-clause (3) of the same clause gives the widest application to the Part which is possible under the Imperial Law and refers in support of this to section 264 of the Merchant Shipping Act, 1894.

Clause 6.—The terms "shipping-master" and "shipping office" were originally used in the English Merchant Shipping law, but by section 15 of 25 and 26 Vict., C. 63, the phrases "Superintendent of a mercantile marine office" and "Mercantile marine office" were respectively substituted. From the drafting point of view there is no particular advantage in making the substitution in the Bill, and it is possible that, for administrative reasons, it may be undesirable to change well-known titles. Under section 742 of the Merchant Shipping Act, 1894, the Superintendent, so far as regards a British possession, includes any shipping-master or other officer discharging in that possession the duties of the Superintendent, so no difficulty arises in that connection from the retention of the word "shipping-master." If for any administrative reasons the substitution is considered desirable, it is a matter which might well be dealt with by an amending Act.

Clause 9.—This clause reproduces the existing law. It may be pointed out that the fees payable upon engagements and discharges of seamen have been abolished in the United Kingdom and by the Statute Law Revision Act, 55 and 56 Vict., C. 19, the law which authorises the levy of those fees was repealed.

Clause 11.—Clause 11 has been drawn in the somewhat awkward form in which it appears in the Bill, as, though it reproduces the existing law, it seems probable that an amendment will be called for. Under the English law, section 92 of the Merchant Shipping Act, all ships to which that section applies are required to have at least a certificated master.

Clause 11 (2).—The draft Bill makes a slight change here in the existing law, as a steamship proceeding to the Straits Settlements would require engineer officers only on the scale required for home-trade ships; whereas,

under section 31 of the Indian Steam-ships Act, 1884, she is treated in this respect as a foreign-going ship. It is to be observed that the reference to the Straits Settlements was included in the definition of a "foreign-going ship" contained in section 118 of the Merchant Shipping Act, 1859, by the Indian Merchant Shipping Law Amendment Act, 1891, and that a similar amendment was not made in section 30 (1) of the Indian Steam-ships Act, 1884. Attention is drawn to the point in case the matter may be one of practical importance.

Clause 11 (3).—The provision in Act VII of 1884, section 32, which is here re-enacted is re-enacted in an absolute form instead of depending as it does in the existing law on an order of the Local Government. This clause, it is thought, is justified as it is understood that all maritime Local Governments have made the order and the requirement is in force and is also in accordance with the trend of modern legislation.

Clause 16.—The examiners are required to report on the sobriety, experience and ability of applicants for certificates as masters and mates under the existing Indian law. The clause as drawn extends this requirement to the case of engineer certificates, and thus makes a small alteration in the law. There seems no reason why the law should not be assimilated into the English law, and the fact that the requirement does not exist would appear to be mainly due to the different periods of time at which the Acts here consolidated were enacted. As, however, a small alteration in the law is involved attention is drawn to this clause.

Clause 17.—This clause omits those portions of section 12 of Act I of 1859 which appear to be clearly spent. It further substitutes what are understood to be the modern designations of the Officers of the Naval or Royal Indian Marine officers referred to in the existing law. The Committee, however, are not in possession of sufficient information on the subject to say whether the designations employed are entirely accurate, and attention is drawn to this clause from that point of view.

Clause 22.—Following the drafting of the Merchant Shipping Act, 1894, the provisions of the law relating to the production of certificates of competency to the shipping-master are separated from those relating to the production of the agreement with the crew, which will be found in clause 34. This separation makes the drafting clearer and is necessitated by the re-arrangement of the order of the provisions incorporated in the Bill.

Clause 23.—The provisions of the Apprentices Act, 1850 (XIX of 1850), relating to apprentices to the sea service have been reproduced in the Bill, and the references in the Apprentices Act have accordingly been repealed. It is thought that these provisions more appropriately belong to the law relating to Merchant Shipping, especially as they impose duties on shipping-masters. It may be pointed out, however, that these provisions merely refer to ships registered in British India. It has been ascertained by inquiry from those conversant with the facts that apprenticeships are made in British India to owners of ships registered in the United Kingdom. The provisions of sections 108 and 109 of the Merchant Shipping Act, 1894, only apply in the United Kingdom. It seems desirable that they should be re-enacted *mutatis mutandis* in the Indian law, but the matter is one for an amending Bill.

Clause 27.—The requirement regarding agreements with the crew under the existing law, which is here reproduced, only extends to home-trade ships of three hundred tons or upwards. Attention is drawn to the provisions of the Merchant Shipping Act, 1894, section 113, which requires an agreement in the case of all ships, except home-trade ships of less than eighty tons.

Clause 28 (2) (f).—The power to fix the scale of provisions in the case of lascars or other native seamen is by the existing law conferred on the Local Government, with the previous sanction of the Governor General in Council. This provision is reproduced in the Bill, but the re-arrangement of the Bill brings out the inconsistency of this division of the powers when it is considered that the form of agreement is to be sanctioned by the Governor General in Council. There appears to be some case for a consideration of an amendment of the law.

Clause 28 (2) (g).—The reference to short allowance of provisions herein contained reproduces the existing law, but it is understood that in the sanctioned form of agreement this punishment has long been struck out. In these circumstances here also there appears to be a case for the amendment of the law.

Clause 38.—This clause reproduces the existing law, but it is for consideration whether some amendment is not desirable. The clause relates to the engagement of seamen "to proceed to any port out of British India." This would include some home-trade voyages. The question seems to arise, therefore, whether some amendment is not necessary.

Clause 49.—The existing law is reproduced by this clause, but the attention of Government might be called to the provisions of section 137 of the Merchant Shipping Act, 1894, which enables small questions of wages to be dealt with in the case of foreign-going ships without a written agreement. The matter is not, however, one that can be dealt with in a consolidating Bill.

Clause 56.—Sub-clause (2) of this clause is new. It is based on section 56 (q) of the Merchant Shipping Act, 1894. As will be seen it is merely a drafting amendment, and, therefore, may reasonably be inserted in a consolidating Bill. It remedies a defect in the section which is obvious.

Clause 59.—In connection with this clause attention is drawn to the provisions of section 160 of the Merchant Shipping Act, 1894, under which a seaman is not entitled to wages where his illness is only caused by his own default. Apparently under the Indian law a man is entitled to wages in those circumstances.

Clause 63.—This reproduces the existing law, but some amendment is desirable, as the Indian law does not recognise a summary suit before a Magistrate.

Clause 65.—Section 167 (2) of the Merchant Shipping Act, 1894, gives the master and the persons lawfully acting, owing to his illness, for the master similar rights in respect of lawful disbursements. This is a provision which might well find place in an amending Bill.

Clause 75 (1) (c).—The provision here reproduced is that contained in section 56 (c) of Act VII of 1880. It seems somewhat anomalous that the control over the local authority which is appointed by the Local Government [clause 74 (2)], should be vested in the Governor General in Council.

Clause 98.—This clause reproduces the existing law, and follows the Merchant Shipping Act, 1854, which only applies to ships before arrival in dock or the place of discharge. A substantial amendment is necessary if the Indian law is to be brought into harmony with the English law contained in section 218 of the Merchant Shipping Act, 1894.

Clause 147.—Under section 368 of the Merchant Shipping Act, 1894, the provisions of Part III of that Act (other than the provisions relating to passenger steamers only) do not apply to British India, but by sub-section (2) of that section, the Governor General in Council is, by Act, allowed to declare that all or any provisions of Part III shall apply to the carriage of steerage passengers upon any voyage from any specified port whatsoever. This section in the Merchant Shipping Act, 1894, is based on section 99 of 18 and 19 Vict., C. 119 (the Passengers' Act, 1855). Under the powers conferred by that Act, the Indian Sea Passengers' Act, 1855, was passed. The Passengers' Act dealt with the carriage of passengers of all classes. Section 368 referred to above only deals with the carriage of steerage passengers. The provisions of the Indian Sea Passengers' Act were, in effect, made applicable to certain voyages specified in section 3 of that Act, and to those voyages the provisions of sections 273 and 274 and Schedule VII of the Passengers' Act were applied. The corresponding provisions of the Merchant Shipping Act of 1894 are the provisions in case of wreck contained in sections 332, 333, 334, and 335 of the Act of 1894, and these provisions have been incorporated in a Schedule to the Bill.

Section 368 (3) provides that an Act passed in virtue of the power conferred by that section shall not have effect under the section unless it is reserved for the signification of His Majesty's pleasure thereon, or contains

a suspending clause providing that the Act shall not come into operation until His Majesty's pleasure thereon has been publicly signified in British India. Section 368 does not contain a provision with reference to Acts passed under the power reproduced thereby similar to that in section 735, sub-section (2) of the Merchant Shipping Act, 1894. It will, therefore, appear to be necessary to insert a clause making the repeal of the existing law take effect from the date on which His Majesty may signify his pleasure.

Part IV.—The clauses of the Bill in this Part are a consolidation of the Native Passenger Ships Act, 1887 (X of 1887), and the Pilgrim Ships Act, 1895 (XIV of 1895). Though possibly for some reasons it might be more convenient to keep these Acts separate, it is impossible to do so in a consolidation Bill, as a large number of the clauses of the two Acts are *verbatim* reproductions. The plan adopted has been to state the general provisions which apply to both classes of ships, and then to proceed to deal with the special rules which relate only to the particular class in question.

Clause 149 (2).—It has been found desirable to define "native passenger ship", and the reference in the provision is to clause 147 (2).

Clause 218.—In this clause and in the clause following, clause 219, regarding the marking of load-lines, the provisions of the existing law have been consolidated so as to bring together, subject to the exceptions provided by the Part, the provisions of the law relating both to British and foreign ships.

Clause 228.—This clause contains the saving for foreign ships contained in Act VII of 1880, and the Bill as drawn in this form makes it possible to summarise the provisions relating to overloading and improper loading and the marking of the deck of load-lines covering the cases of all classes of vessels.

Clause 238.—This clause contains the special provisions, in the application to foreign ships, of the provisions as to detention which are contained in section 85 of Act VII of 1880.

Clauses 240—245.—These clauses consolidate the law in regard to the provision of wireless telegraphy on board ships, which seem to fall appropriately under this part of the Bill.

Part VI.—This Part separates from the main body of the Act the provisions of the law in regard to shipping inquiries in Courts. In this respect it follows the Merchant Shipping Act, 1894, and the arrangement is probably convenient.

Clause 251.—The power to legislate to give power to hold an inquiry in the case of a master, mate or engineer holding a certificate under the Merchant Shipping Act, 1894, is restricted by section 478 of the Merchant Shipping Act, 1894, to the cases mentioned in clause (b) of sub-clause (1) of that clause. It seems desirable that this limitation should appear on the face of the Act and accordingly it has been inserted in this clause.

Clause 258.—The power conferred by section 472 of the Merchant Shipping Act, 1894, appears to supersede the power in section 80 of Act I of 1859 as regards Courts having Admiralty jurisdiction, and the reference in this clause is intended to draw attention to the existence of that power.

Clause 265. This clause gives power to Courts, in ports where there is no Colonial Court of the Admiralty, to remove a master.

Clause 280.—This clause brings together the officers or other persons who are by various sections of the Act consolidated and declared to be public servants within the meaning of the Indian Penal Code (XLV of 1860). This consolidates the provisions as to the place of trial which are scattered over the various Acts.

Clause 281.—This consolidates, in as general a form as possible, the scattered provisions as to the depositions of witnesses who cannot be produced.

Section 112 of the Merchant Shipping Act, 1859, does not confine the power to try cases thereunder to first class Magistrates, but under the

existing law it is only Magistrates of the first class who can try cases summarily. In the Act of 1880 there is no special provision as to the class of Magistrate who may try offences except section 54, which provides that Chapter III should be taken as part of the Indian Merchant Shipping Act, 1859, and the same remark applies to the Act of 1883. Section 38 of the Indian Steam-ships Act, 1884, contains the provision which appears in the Bill, whilst the Native Passenger Ships Act, 1887, and the Pilgrim Ships Act, 1895, confine the power to try cases under those Acts to Magistrates of the first and second classes. The Indian Wireless Telegraphy (Shipping) Act, 1920, imposes no limitation. This clause, therefore, does not exactly reproduce the existing law, but it is suggested that, in a Bill of this kind, it would be difficult, and possibly is not necessary, to specify various offences as triable, respectively, by first and second class Magistrates.

Clause 284.—This places in the appropriate part of the Bill the provisions for enforcing the detention of a ship.

Clause 286.—This consolidates the various provisions scattered through the Act as to the levy of wages, fines, etc., by description of the ship.

Clause 288.—This gives general application to the provisions of two Acts regarding the application of fines imposed under the Act.

Clause 289 (1).—This clause follows the Merchant Shipping Act, 1894, section 723, in that it gives to the shipping-master a power of entry on board British ships in all cases and not only, as in section 30 of the Indian Merchant Shipping Act, 1859, reproduced in clause 41 of the Bill, for the purpose of preventing a seaman from being shipped contrary to the provisions of that Act.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 16th March, 1922 :—

No. 6 OF 1922.

A

BILL

TO

Provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto.

WHEREAS it is expedient to provide for the incorporation of Trustees for the European Hospital for mental diseases at Ranchi, and to make provision for other matters in relation thereto; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Act may be called the Ranchi Mental Hospital Act, 1922.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "the Board" means the Board of Trustees for the European Hospital for mental diseases at Ranchi constituted under this Act;

(b) "the Chairman" means the Chairman of the Board;

(c) "the Hospital" means the European Hospital for mental diseases established at Ranchi in the province of Bihar and Orissa;

(d) "land" means land as defined in section 3 of the Land Acquisition Act, 1894.

(e) "the Local Government" means the Local Government of Bihar and Orissa;

(f) "the Superintendent" means the Superintendent of the Hospital appointed by the Local Government; and

(g) "Trustee" means a member of the Board.

Incorporation of Trustees.

3. Subject to the provisions of this Act, the entire management and control of the Hospital shall, on and from the date on which this Act comes into force, be vested in a Board to be called "the Trustees for the European Hospital for mental diseases at Ranchi," and the Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Constitution of
the Board.

4. (1) The Board shall consist of fourteen Trustees, namely:—

- (a) a Chairman appointed by the Local Government;
- (b) four Trustees appointed by the Local Government of Bengal;
- (c) two Trustees appointed by each of the Local Governments of the United Provinces of Agra and Oudh, the Punjab and Bihar and Orissa;
- (d) one Trustee appointed by the Local Government of the Central Provinces;
- (e) one Trustee elected by the Calcutta branch of the European Association; and
- (f) one Trustee elected by the Anglo-Indian and Domiciled European Association (Bengal), Limited.

(2) The Superintendent shall be *ex-officio* Secretary of the Board.

Initial loan to the
Board.

5. (1) On the date on which this Act comes into force, the Governor General in Council shall pay to the Board a sum of three and a half lakhs of rupees by way of loan, which sum shall be repaid by the Board, together with any interest or costs due in respect thereof, in accordance with such terms and conditions as the Governor General in Council may fix.

(2) Any amount which is repaid or is repayable in any year under sub-section (1) shall be taken into account in the calculation of the amount attributable to the cost of maintenance, as defined in section 3 of the Indian Lunacy Act, 1912, of the lunatics detained in the Hospital in that year. IV of 1912.

Loans to the
Board for specific
purposes.

6. (1) The Governor General in Council may, on such terms and conditions as he may fix, make further loans to the Board for the carrying out of any works in connection with the Hospital which have been sanctioned in accordance with the provisions of any rules made under this Act, and the Board shall repay the money borrowed, together with any interest or costs due in respect thereof, according to the terms and conditions of the loan.

(2) Save as provided in section 5 and sub-section (1), the Board shall not borrow money upon or otherwise charge its funds.

Other income.

7. On and from the date on which the provisions of this Act come into force, all monies payable under the Indian Lunacy Act, 1912, on account of the cost of maintenance of any lunatic in the Hospital shall be paid to the Board. IV of 1912.

Acquisition of
land.

8. The Local Government may, at the request of the Board, acquire under the provisions of the Land Acquisition Act, 1894, any land which it is satisfied is required by the Board for the purposes of the Hospital, and, on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Local Government in connection with the proceedings, the land shall vest in the Board. I of 1894.

Establishment.

9. Subject to the provisions of this Act and of any rules made hereunder, the Board shall maintain such staff of officers and servants as may in its opinion be necessary for the proper management and up-keep of the Hospital, and shall assign to them such pay and allowances as it thinks fit.

Contributions for pension, etc.

10. Where any person in the service of Government is appointed as an officer or servant of the Board, the Board shall—

- (a) if his services are wholly lent or transferred, meet in addition to his pay and allowances any charges prescribed or authorised by any rules for the time being in force under the provisions of section 96B of the Government of India Act regarding contributions towards pensions or gratuities and leave allowances, and
- (b) if he is employed partly by Government and partly by the Board, meet such proportion of such pay and allowances and charges as may be determined by the Local Government.

Trustees and servants to be public servants.

11. Every Trustee and every officer and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Returns.

12. The Local Government may call upon the Board to furnish it with any extract from any proceedings of the Board or from any record under the control of the Board, or with any statistics concerning the administration of the Hospital, and the Board shall thereupon furnish the same without unreasonable delay.

Control and supersession of the Board.

13. (1) If the Local Government, after such inquiry as it may deem fit, is satisfied—

- (a) that any of the duties imposed or powers conferred upon the Board by or under this Act has not been performed or exercised, or has been performed or exercised in an imperfect, inefficient or unsuitable manner; or
- (b) that adequate financial provision has not been made for the performance of any such duty or for the proper maintenance of the Hospital;

it may, by order in writing, direct the Board, within such period as may be specified in the order, to make arrangements to the satisfaction of the Local Government for the proper performance of any such duty or the proper exercise of any such power, or to make financial provision to the satisfaction of the Local Government for the performance of any such duty or for the maintenance of the Hospital, as the case may be; and the Board shall thereupon comply with such direction.

(2) On the failure of the Board to comply with any such direction, the Local Government or any person appointed by the Local Government in this behalf may perform such duty or exercise such power or make such provision, as the case may be, and the

Local Government may attach the funds of the Board or any portion thereof and may apply the same to meet any charges incurred in the performance of such duty or the exercise of such power, or in the making of such provision, as the case may be.

(3) On the repeated failure of the Board to comply with such directions, or if the Board otherwise exceeds or abuses its power, the Local Government may, with the previous sanction of the Governor General in Council, by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare the Board to be incompetent or to have exceeded or abused its powers, as the case may be, and direct that the Board shall be superseded for such period as may be specified in the notification.

(4) When the Board is superseded under the provisions of sub-section (3)—

- (a) all Trustees shall, from the date of the publication of the notification under that sub-section, vacate their offices as Trustees;
- (b) all powers and duties of the Board shall during the period of supersession, be exercised and performed by such person or persons as the Local Government may appoint in this behalf;
- (c) all funds and other property vested in the Board shall, during the period of supersession, vest in the Local Government on behalf of His Majesty; and
- (d) before the expiration of the period of supersession, elections shall be held and appointments made for the purpose of reconstituting the Board.

(5) If the Local Government is informed by the Governor General in Council that the Board has made default in the repayment of any sum due on account of a loan under section 5 or section 6, the Local Government shall forthwith exercise such of its powers under sub-sections (1) and (2) as may be necessary for the purpose of enforcing such repayment.

Dissolution of the Board.

14. The Local Government may, with the previous sanction of the Governor General in Council by notification in the Gazette of India and in the Bihar and Orissa Gazette, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved, and, on the making of such declaration, all funds and other property vested in the Board shall vest in the Local Government on behalf of His Majesty.

Power of the Governor General in Council to make rules.

15. The Governor General in Council may make rules prescribing—

- (a) the qualifications for being appointed a Trustee;
- (b) the circumstances in which and the authority by which any Trustee may be removed;
- (c) the filling of any vacancy in the office of a Trustee, whether temporary or otherwise;

- (d) the term of office of Trustees; and
- (e) the allowances, if any, payable to the Trustees from the funds of the Board on account of attendance at meetings of the Board.

*Power of the Local Government to make rules.

16. (1) The Local Government may, subject to rules made under section 15, make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) for fixing the minimum number of meetings of the Board during any year;
- (b) for requiring the maintenance by the Board or the Managing Committee of the Board of a record of all business transacted and the submission of copies of such record to the Local Government or to any other specified authority;
- (c) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed;
- (d) for sanctioning works in connection with the Hospital, and for prescribing the preparation of estimates of such works before work is commenced and the authority by which such estimates shall be sanctioned;
- (e) for the procedure to be observed in calling for and considering tenders.
- (f) for requiring the preparation of schedules of the staff of officers and servants of the Board;
- (g) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent respectively, in respect of the appointment, promotion and dismissal of officers and servants of the Board, and in respect of the creation and abolition of appointments of such officers or servants;
- (h) for regulating the grant of leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;
- (i) for regulating the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board.
- (j) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Board, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers or servants, other than Government servants whose services have been lent or transferred to the Board;

- (k) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Board and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;
- (l) for defining the powers of the Board, the Managing Committee of the Board, the Chairman and the Superintendent, respectively, in regard to the expenditure of the funds of the Board, whether provision has or has not been made in the budget estimates or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure ;
- (m) for prescribing the maintenance of accounts of the receipts and expenditure of the Board and providing for the audit of such accounts ;
- (n) for prescribing the manner in which payments are to be made by or on behalf of the Board and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Board shall be signed ; and
- (o) for determining the custody in which the current account of the Board shall be kept, and the bank or banks at which surplus monies at the credit of the Board may be deposited at interest, and the conditions on which such monies may be otherwise invested.

Powers of the Board to make rules.

17. Subject to any rules made under sections 15 and 16, the Board may, with the previous sanction of the Local Government, make rules to provide for all or any of the following matters, namely :—

- (a) for the constitution of a Managing Committee, and the delegation thereto of any powers exercisable under this Act by the Board ;
- (b) for prescribing the method of appointment, removal and replacement and the term of office of members of the Managing Committee, and for the filling of vacancies therein ;
- (c) for the appointment of the dates, times and places for meetings of the Board and the Managing Committee, and for regulating the procedure to be observed at such meetings ;
- (d) for determining the amount and nature of the security, if any, to be demanded from officers or servants of the Board, and the circumstances in which such security may be demanded ;
- (e) for determining the times at which, and the circumstances in which payments may be made out of the provident fund, and the conditions on which such payments shall relieve the fund from further liability ;

(f) for determining the contribution, if any, payable from the funds of the Board to the provident fund;

(g) for regulating generally all matters incidental to the provident fund and the investment thereof; and

(h) for defining the powers and duties of the Secretary of the Board.

Rules to be made after previous publication.

18. All rules made under this Act shall be made subject to the condition of previous publication, and shall be published in the Gazette of India and in the Bihar and Orissa Gazette, and on such publication shall have effect as if they were enacted in this Act.

Notice of suits against the Board, etc.

19. No suit shall be instituted against the Board or any Trustee or any officer or servant of the Board, or any person acting under the direction of the Board or of the Chairman or of any such officer or servant, in respect of any act purporting to be done under this Act or any rule made hereunder until the expiration of one month after written notice has been delivered or left at the office of the Board or at the office or place of abode of such officer or servant, stating the cause of action, the name and place of abode of the complainant and the relief which he claims, and unless the plaint contains a statement that such notice has been so delivered or left.

Validation.

20. No act done or proceedings taken under this Act shall be questioned on the ground merely of—

(a) the existence of any vacancy in or any defect in the constitution of the Board or the Managing Committee; or

(b) any person having ceased to be a Trustee; or

(c) any omission, defect or irregularity, not affecting the merits of the case.

Classification of Hospital.

21. For all the purposes of the Indian Lunacy Act, IV of 1912, 1912, the Hospital shall be deemed to be an asylum established by the Government.

STATEMENT OF OBJECTS AND REASONS.

A central asylum has for some years been established at Ranchi for the reception of European lunatics from Northern India. As it was intended to serve the needs of several provinces the whole initial cost of the buildings and equipment was met from Imperial funds, but the Provincial Governments concerned agreed to pay the cost of maintenance of all lunatics maintained in the hospital from their provinces. The recovery of these charges has now incidentally been placed upon a legal basis by the enactment of the Indian Lunacy (Amendment) Act, 1922, but the Government of Bihar and Orissa still anticipate considerable difficulties in financing the hospital which in a great measure has been instituted to meet the needs of other provinces.

With the separation of provincial from central finances which has followed the introduction of the Reforms, the Government of India are unable to finance the hospital to a greater extent than is permissible under the Devolution Rules. That is, the Central Government can meet the cost of maintenance of lunatics from places under the Central Government who are maintained in the hospital, and otherwise can only make advances to the Local Government from central revenues under Devolution Rule 25. In order to meet these difficulties, it is considered that it is desirable to make over the hospital to a Board of Trustees on which the various provinces interested in the maintenance of the hospital would be represented and which would be responsible for its proper upkeep under the control of the Government of Bihar and Orissa. The ordinary annual charges would be met by the Board by recoveries from the patients and Local Governments concerned, and the Board would be placed in funds until such recoveries become due by an advance from the central revenues, and the capital cost of original works would also be met by similar advances. Such advances would be repaid to the Central Government by equated instalments of principal and interest within such periods as would be fixed in each case. The object of the present Bill is to give effect to this scheme. It provides for the incorporation of the Board of Trustees, the powers of the Board and the restrictions upon the powers of the Board. The Government of Bengal is given greater representation on the Board than other Local Governments, because 58 per cent. of the inmates of the hospital come from that province. In addition arrangements are included for the control and supersession of the Board, in the event of its failure to perform its duties or of its repeated failure to perform its duties. Finally, the Bill provides for the dissolution of the Board at any time and the re-vesting of the funds and other property of the Board in the Government of Bihar and Orissa on behalf of His Majesty. An order to this effect can, however, only be made by the Government of Bihar and Orissa with the previous sanction of the Governor General in Council, and the intention is that such sanction shall not be granted unless suitable provision is made by the Local Government for safeguarding the interests of other Local Governments which have contributed to the maintenance of lunatics in the Asylum.

S. P. O'DONNELL.

DELHI:

The 6th March, 1922.

H. MONCRIEFF SMITH,

Secretary to the Government of India.

GOVERNMENT OF INDIA.**LEGISLATIVE DEPARTMENT.**

The following Bill was introduced in the Legislative Assembly on the 27th February, 1922:—

No. 9 of 1922.

A

BILL

TO

*Regulate the employment of child labour in ports in
British India.*

WHEREAS it is expedient to regulate the employment of child labour in ports in British India; it is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Ports (Amendment) Act, 1922.

Amendment of
section 5, Act XV
of 1908.

2. In section 6 of the Indian Ports Act, 1908,— XV of 1908.

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) In addition to any rules which it is empowered to make under sub-section (1), the Local Government shall make rules prohibiting the employment at piers, jetties, landing places, wharves, quays, docks, warehouses and sheds of children under the age of twelve years upon the handling of goods other than goods which can be transported by hand”; and

(b) in sub-section (2) after the word and figure “sub-section (1)” the words and figure “and sub-section (1A)” shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The general Conference of the International Labour Organisation of the League of Nations convened at Washington on the 29th October, 1919, adopted a Draft Convention concerning the minimum age for admission of children to industrial employment. Article 6 (c) of the Convention prohibits, *inter alia*, the employment of children under twelve years of age in the handling of goods in docks, quays and wharves but excluding transport by hand. On the recommendation of the Legislative Assembly and the Council of State, the Governor General in Council has ratified the whole of the Convention, and the Government of India are now under an obligation to make the provisions of Article 6 (c) effective. The object of the present Bill is to fulfil this obligation so far as the employment of children in the handling of goods in docks, quays and wharves is concerned.

C. A. INNES.

The 8th February, 1922.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

THE following Bill was introduced in the Legislative Assembly on the 8th March, 1922 :—

No. 15 OF 1922.

A

BILL

to provide for the restriction and control of the transport of cotton in certain circumstances.

WHEREAS it is expedient for the purpose of preventing the mixing of inferior with superior varieties of cotton to provide for the restriction and control of the transport by rail and the import of cotton into certain areas; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Cotton Transport Act, 1922.

(2) It extends to the whole of British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "certified copy," in relation to a licence, means a copy of the licence certified in the manner described in section 76 of the Indian Evidence Act, 1872, by the authority by which the licence was granted; 1 of 1872.

(b) "cotton" means all unmanufactured cotton, including cotton either ginned or unginned cotton waste and cotton seed;

(c) "cotton waste" means droppings, strippings, fly and other waste products of a cotton-mill other than yarn waste;

(d) "licence" means a licence granted under this Act;

(e) "notified station" means a railway station specified in a notification under section 3;

(f) "prescribed" means prescribed by rules made under this Act; and

(g) "protected area" means an area into which the import of cotton has been prohibited by a notification under section 3.

Power to issue notification prohibiting import of cotton into protected area.

3. (1) The Local Government may, for the purpose of protecting the cotton grown in any area in the Province from being mixed with cotton of an inferior variety, by notification in the local official Gazette prohibit the import of cotton into that area save under, and in accordance with the conditions of, a licence.

(2) Any such notification may prohibit the delivery to, and the taking of delivery by, any person, at any specified railway station situated in the protected area, of cotton consigned from a railway station not

situated in that area, unless such person holds a licence for the import of the cotton into that area.

Refusal to carry
unlicensed cotton.

4. (1) Notwithstanding anything contained in the Indian Railways Act, 1890, or any other law for the time being in force, the station master of any railway station or any other railway servant responsible for the booking of goods or parcels at that station may refuse to receive for carriage at, or to forward or allow to be carried on the railway from, that station any cotton consigned to a notified station, unless both stations are in the same protected area, or unless the consignor produces a certified copy of a licence for the import of the cotton into the protected area in which such notified station is situate.

IX of 1890.

(2) Every certified copy of a licence when so produced shall be attached to the invoice when the consignment is booked as goods and to the way-bill when the consignment is booked as a parcel, and shall accompany the consignment to its destination, and shall there be dealt with in the prescribed manner.

(3) Where by or under any law in force in the territories of any State in India the import of cotton into any area, or the delivery of cotton at any railway station, situate in such State has been prohibited, the Governor General in Council may, by notification in the *Gazette of India*, declare that the provisions of sub-section (1) shall apply in respect of all cotton consigned to any such station as if such area and such station were respectively a protected area and a notified station, and as if any licence granted under such law were a licence granted under this Act.

Procedure where
cotton arrives at
notified station.

5. (1) Where any cotton having been consigned to a notified station arrives at that station, the station master or other railway servant responsible for the receipt and delivery to the consignee of goods or parcels, as the case may be, at that station shall, unless both the notified station and the railway station from which the cotton has been consigned are situated in the same protected area, refuse to deliver the cotton until he is satisfied that the consignee holds a licence for the import of the cotton into the protected area in which such notified station is situated; and if he is not so satisfied, or if, within a reasonable time, the consignee or some person acting on his behalf does not appear in order to take delivery, shall return the cotton to the railway station from which it was consigned, together with an intimation that delivery of the cotton has been refused or has not been taken, as the case may be.

(2) Any station master or other railway servant receiving any cotton returned under sub-section (1), or returned with a like intimation from a railway station specified in a notification under sub-section (3) of section 4, shall cause to be served on the consignor in any manner authorised by section 141 of the Indian Railways Act, 1890, a notice stating that the cotton has been so returned and requiring the consignor to pay any rate, terminal or other charges due in respect of the carriage of the cotton to and from the railway station to which it was consigned, and such charges shall be deemed to be due from the consignor for all the purposes of section 55 of that Act.

IX of 1890.

Penalties.

6. Any person who, in contravention of the provisions of this Act, or of any notification or rule made hereunder, takes delivery of any cotton from a notified station or imports, or attempts to import, any cotton into a protected area, and any station

master or other railway servant who, in contravention of the provisions of sub-section (1) of section 5, without reasonable excuse, the burden of proving which shall lie upon him, delivers any cotton to a consignee or other person, shall be liable to a fine not exceeding one thousand rupees, and upon any subsequent conviction to imprisonment which may extend to three months, or to fine which may extend to five thousand rupees, or to both.

Power to make rules.

7. (1) The Local Government may make rules to provide for any of the following matters, namely:—

- (a) the prevention of the import of cotton into a protected area by road, river or sea save under, and in accordance with the conditions of, a licence;
- (b) the terms and conditions to be contained in licences and the authorities by which they may be granted; and
- (c) the manner in which licences and certified copies thereof shall be dealt with on and after the delivery of the cotton to which they relate.

(2) Any such rules may provide that any contravention thereof or of the conditions of any licence, not otherwise made punishable by this Act, shall be punishable with fine which may extend to five hundred rupees.

Previous approval of Local Legislature to issue of notifications and rules.

8. No notification under section 3 or rule under section 7 shall be made by the Local Government of any Governor's Province, unless it has been laid in draft before the Legislative Council of the Province, and has been approved by a resolution of the Legislative Council, either with or without modification or addition, but upon such approval being given the notification or rule, as the case may be, may be issued in the form in which it has been so approved.

Protection for acts done under Act.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

STATEMENT OF OBJECTS AND REASONS.

The Indian Cotton Committee, which was appointed in 1917, brought to notice—

- (1) that the practice of adulterating long staple cotton with short staple was very prevalent at the gins and press-houses in certain long staple areas, the object being to secure for the mixture the higher prices offered for long staple;
- (2) that, owing to the consequent mixture of seed, there was considerable deterioration in the cultivation of many of the superior varieties of cotton;
- (3) that soft cotton waste was also used for the purpose of adulteration with "*kapas*" (the natural floss); and
- (4) that short staple cotton was frequently railed to a long staple area and re-booked thence, even without mixing, as long staple cotton.

2. As instances of (1) and (2), the Committee quoted the imports of short staple cotton into the Broach tract, the result of which has been that Broach cotton has largely lost its former reputation. Other superior varieties of cotton are threatened with the same fate. The practice described under (4)

above is facilitated by the trade custom whereby cotton is bought and sold on the name and reputation of the area where it purports to have been grown; i.e., on the name of the railway station from which the bales are last booked.

3. These malpractices are exercising so serious and dangerous an influence on the industry as a whole, that the necessity of taking Governmental action has become a matter of immediate importance. The Bill provides a remedy by enabling Local Governments to prevent inferior cotton or cotton-waste, as defined, from being imported, except under licence, into areas which it is desired to protect.

The principal provisions of the Bill are as follows :—

- (1) Local Governments are empowered, with the previous consent of the Provincial Legislature, to define the areas and to notify the stations which should be regarded as protected. Consignments of cotton are not allowed to any such notified station except from other notified stations in the same area.
- (2) It is necessary to make certain exceptions to the prohibition in favour, for instance, of mill-owners within the area requiring extraneous cotton and of purchasers of cotton waste for industrial purposes. Local Governments are accordingly empowered to frame rules for a licensing system and to appoint the authorities for the issue of licences.
- (3) Station masters or other railway servants responsible for the delivery of goods or parcels are prohibited under penalties from delivering cotton improperly consigned to their stations.

DELHI,

The 6th March, 1922.

C. A. INNES.

H. MONCRIEFF SMITH,

Secretary to the Government of India.



The Calcutta Gazette

WEDNESDAY, APRIL 19, 1922.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 8th March 1922:—

No. 14 OF 1922.

A

BILL

To

Assimilate the law in British India relating to official secrets to the law in force in the United Kingdom.

WHEREAS the law in British India relating to official secrets is at present contained in two Acts of the Governor General in Council, namely, the Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, and one Statute of Parliament, namely, the Official Secrets Act, 1911; and

XV of 1889.
V of 1904.
1 & 2 Geo. V,
c. 28.

Whereas the Official Secrets Act, 1911, has been amended by the Official Secrets Act, 1920, which Statute applies to the United Kingdom and to certain British possessions, but not to British India; and

1 & 2 Geo. V,
c. 28.
10 & 11 Geo
V, c. 75.

Whereas it is expedient that the law relating to official secrets in British India should be assimilated to the law of the United Kingdom as contained in

both the said Statutes; it is hereby enacted as follows:—

Short title, extent and application.

1. (1) This Act may be called the Indian Official Secrets Act, 192 .

Section 1 of Act XV of 1889.

(2) It extends to the whole of British India, and applies also—

(a) to all subjects of His Majesty within the dominions of Princes and States in India in alliance with His Majesty; and

(b) to all Indian subjects of His Majesty without and beyond British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

Section 12 of 1 & 2 Geo. V, c. 28.

(1) any reference to a place belonging to His Majesty includes a place occupied by any department of the Government, whether the place is or is not actually vested in His Majesty;

(2) expressions referring to communicating or receiving include any communicating or receiving, whether in whole or in part, and whether the sketch, plan, model, article, note, document, or information itself or the substance, effect or description thereof only be communicated or received; expressions referring to obtaining or retaining any sketch, plan, model, article, note or document, include the copying or causing to be copied of the whole or any part of any sketch, plan, model, article, note, or document; and expressions referring to the communication of any sketch, plan, model, article, note or document include the transfer or transmission of the sketch, plan, model, article, note or document.

Section 12, 1 & 2 Geo. V, c. 28.

(3) "document" includes part of a document;

(4) "model" includes design, pattern and specimen;

(5) "munitions of war" includes the whole or any part of any ship, submarine, aircraft, tank or similar engine, arms and ammunition, torpedo, or mine intended or adapted for use in war, and any other article, material, or device, whether actual or proposed, intended for such use;

Section 9 (2) of 10 & 11 Geo. V, c. 75.

(6) "prohibited place" means—

Section 3 of 1 & 2 Geo. V, c. 28.

(a) any work of defence, arsenal, naval or air force establishment or station, factory, dockyard, mine, minefield, camp, ship, or aircraft belonging to, or occupied by or on behalf of, His Majesty, or any telegraph, telephone, wireless or signal station or office so belonging or occupied, and any place belonging to, or occupied by or on behalf of, His Majesty and used for the purpose of building, repairing, making, or storing any munitions of war, or any sketches, plans, models or documents relating thereto, or for the purpose of getting any metals, oil, or minerals of use in time of war;

Section 10 of 10 & 11 Geo. V, c. 75.

(b) any place not belonging to His Majesty where any munitions of war or any sketches, models, plans or documents relating thereto, are being made, repaired, gotten or stored under contract with, or with any person on behalf of, His Majesty, or otherwise on behalf of His Majesty;

Section 3 of
1 & 2 Geo. V,
c. 28.

(c) any place belonging to or used for the purpose of His Majesty which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or damage thereto, would be useful to an enemy;

(d) any railway, road, way or channel, or other means of communication by land or water (including any works or structures being part thereof or connected therewith) or any place used for gas, water or electricity works or other works for purposes of a public character, or any place where any munitions of war or any sketches, models, plans, or documents relating thereto, are being made, repaired, or stored otherwise than on behalf of His Majesty, which is for the time being declared by the Governor General in Council, by notification in the Gazette of India, to be a prohibited place for the purposes of this Act on the ground that information with respect thereto, or the destruction or obstruction thereof, or interference therewith, would be useful to an enemy;

(7) "sketch" includes any photograph or other mode of representing any place or thing;

Section 13
of 1 & 2 Geo.
V, c. 28.

(8) "office under His Majesty" includes any office or employment in or under any department of the Government or of the Government of any British possession; and

(9) "Superintendent of Police" includes any police-officer of a like or superior rank, and any person upon whom the powers of a Superintendent of Police are for the purposes of this Act conferred by the Governor General in Council or by any local Government.

Penalties for
spying.

3. (1) If any person for any purpose prejudicial to the safety or interests of the State—

Section 1 of
1 & 2 Geo. V,
c. 28.

(a) approaches, inspects, passes over or is in the neighbourhood of, or enters, any prohibited place; or

(b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or

- (c) obtains, collects, records or publishes or communicates to any other person any secret official code word or pass word, or any sketch, plan, model, article or note, or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy;

he shall be punishable with imprisonment for a term which shall not be less than three years and may extend to fourteen years.

(2) On a prosecution for an offence under this section, it shall not be necessary to show that the accused person was guilty of any particular act tending to show a purpose prejudicial to the safety or interests of the State, and, notwithstanding that no such act is proved against him, he may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State; and if any sketch, plan, model, article, note, document, or information relating to or used in any prohibited place, or anything in such a place, or any secret official code word or pass word is made, obtained, collected, recorded, published or communicated by any person other than a person acting under lawful authority, it shall be deemed to have been made, obtained, collected, recorded, published or communicated for a purpose prejudicial to the safety or interests of the State unless the contrary is proved.

Communications with foreign agents to be evidence of commission of certain offences.

4. (1) In any proceedings against a person for an offence under section 3, the fact that he has been in communication with, or attempted to communicate with, a foreign agent, whether within or without British India, shall be evidence that he has, for a purpose prejudicial to the safety or interests of the State, obtained or attempted to obtain information which is calculated to be or might be, or is intended to be, directly or indirectly, useful to an enemy.

Section 2 of 10 & 11 Geo V, c. 75.

(2) For the purpose of this section, but without prejudice to the generality of the foregoing provision,—

(a) a person shall, unless he proves the contrary, be deemed to have been in communication with a foreign agent if—

(i) he has, either within or without British India, visited the address of a foreign agent or consorted or associated with a foreign agent, or

(ii) either within or without British India, the name or address of, or any other information regarding, a foreign agent has been found in his possession, or has been obtained by him from any other person;

(b) the expression "foreign agent" includes any person who is or has been or is reasonably suspected of being or having been employed by a foreign power, either directly or indirectly, for the purpose of committing an

act, either within or without British India, prejudicial to the safety or interests of the State, or who has or is reasonably suspected of having, either within or without British India, committed, or attempted to commit, such an act in the interests of a foreign power;

- (c) any address, whether within or without British India, reasonably suspected of being an address used for the receipt of communications intended for a foreign agent, or any address at which a foreign agent resides, or to which he resorts for the purpose of giving or receiving communications, or at which he carries on any business, shall be deemed to be the address of a foreign agent, and communications addressed to such an address to be communications with a foreign agent.

Wrongful communication, etc., of information.

5. (1) If any person having in his possession or control any secret official code word or pass word or any sketch, plan, model, article, note, document or information which relates to or is used in a prohibited place or anything in such a place, or which has been made or obtained in contravention of this Act, or which has been entrusted in confidence to him by any person holding office under His Majesty, or which he has obtained or to which he has had access owing to his position as a person who holds or has held office under His Majesty, or as a person who holds or has held a contract made on behalf of His Majesty, or as a person who is or has been employed under a person who holds or has held such an office or contract :—

Section 2 of 1 & 2 Geo. V, c. 28.

- (a) communicates the code word or pass word, sketch, plan, model, article, note, document or information to any person other than a person to whom he is authorized to communicate it, or a person to whom it is, in the interests of the State, his duty to communicate it; or
- (b) uses the information in his possession for the benefit of any foreign power or in any other manner prejudicial to the safety of the State; or
- (c) retains the sketch, plan, model, article, note or document in his possession or control when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with all directions issued by lawful authority with regard to the return or disposal thereof; or
- (d) fails to take reasonable care of, or so conducts himself as to endanger the safety of, the sketch, plan, model, article, note, document, secret official code word or pass word or information;

Section 2 (1) of 10 & 11 Geo. V, c. 75.

He shall be guilty of an offence under this section.

(2) If any person receives any secret official code word or pass word or any sketch, plan, model, article, note, document or information knowing or having reasonable ground to believe, at the time when he receives it, that the code word, pass word, sketch, plan, model, article, note, document or information is

communicated in contravention of this Act, he shall be guilty of an offence under this section, unless he proves that the communication to him of the code word, pass word, sketch, plan, model, article, note, document or information was contrary to his desire.

(3) If any person having in his possession or control any sketch, plan, model, article, note, document or information, which relates to munitions of war, communicates it, directly or indirectly, to any foreign power or in any other manner prejudicial to the safety or interests of the State, he shall be guilty of an offence under this section.

Section 9
(1) of 10 & 11
Geo. V, c. 75.

(4) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Unauthorised
use of uniforms;
falsification of
reports, forgery,
personation, and
false documents.

6. (1) If any person for the purpose of gaining admission or of assisting any other person to gain admission to a prohibited place or for any other purpose prejudicial to the safety or interests of the State—

Section I of
10 & 11 Geo.
V, c. 75.

- (a) uses or wears, without lawful authority, any naval, military, air force, police or other official uniform, or any uniform, so nearly resembling the same as to be calculated to deceive, or falsely represents himself to be a person who is or has been entitled to use or wear any such uniform; or
- (b) orally, or in writing in any declaration or application, or in any document signed by him or on his behalf, knowingly makes or connives at the making of any false statement or any omission; or
- (c) forges, alters, or tampers with any passport or any naval, military, air force, police, or official pass, permit, certificate, licence, or other document of a similar character (hereinafter in this section referred to as an official document), or uses or has in his possession any such forged, altered, or irregular official document; or
- (d) personates, or falsely represents himself to be a person holding, or in the employment of a person holding, office under His Majesty, or to be or not to be a person to whom an official document or secret official code word or pass word has been duly issued or communicated, or with intent to obtain an official document, secret official code word or pass word, whether for himself or any other person, knowingly makes any false statement; or
- (e) uses, or has in his possession or under his control, without the authority of the department of the Government or the authority concerned, any die, seal or stamp of or belonging to, or used, made or provided by, any department of the Government, or by any diplomatic naval, military, or air force authority appointed by or acting under the authority of His Majesty, or any die, seal or

stamp so nearly resembling any such die, seal or stamp as to be calculated to deceive or counterfeits any such die, seal or stamp, or uses, or has in his possession or under his control, any such counterfeited die, seal or stamp;

he shall be guilty of an offence under this section.

(2) If any person—

(a) retains for any purpose prejudicial to the safety or interests of the State any official document, whether or not completed or issued for use, when he has no right to retain it, or when it is contrary to his duty to retain it, or fails to comply with any directions issued by any department of the Government or any person authorized by such department with regard to the return or disposal thereof; or

(b) allows any other person to have possession of any official document issued for his use alone, or communicates any secret official code word or pass word so issued, or without lawful authority or excuse, has in his possession any official document or secret official code word or pass word issued for the use of some person other than himself, or, on obtaining possession of any official document by finding or otherwise, neglects or fails to restore it to the person or authority by whom or for whose use it was issued, or to a police-officer; or

(c) without lawful authority or excuse, manufactures or sells, or has in his possession for sale, any such die, seal or stamp as aforesaid;

he shall be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(4) In the case of any prosecution for an offence under this section involving the proof of a purpose prejudicial to the safety or interests of the State, the provisions of sub-section (2) of section 3 shall apply in like manner as they apply to prosecutions for offences under that section.

Interfering with officers of the police or members of His Majesty's forces.

7. (1) No person in the vicinity of any prohibited place shall obstruct, knowingly mislead or otherwise interfere with or impede, any police-officer, or any member of His Majesty's forces engaged on guard, sentry, patrol, or other similar duty in relation to the prohibited place.

Section 3 of 10 & 11 Geo. V, c. 75.

(2) If any person acts in contravention of, or fails to comply with, the provisions of this section, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Duty of giving
information as to
commission of
offences.

8. (1) It shall be the duty of every person to give on demand to a Superintendent of Police, or other police-officer not below the rank of Inspector, empowered by an Inspector-General or Commissioner of Police in this behalf, or to any member of His Majesty's forces engaged on guard, sentry, patrol or other similar duty, any information in his power relating to an offence or suspected offence under this Act, and, if so required, and upon tender of his reasonable expenses, to attend at such reasonable time and place as may be specified for the purpose of furnishing such information.

Section 6 of
10 & 11 Geo.
V, c. 75.

(2) If any person fails to give any such information or to attend as aforesaid, he shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Attempts, in-
citements, etc.

9. Any person who attempts to commit or abets the commission of an offence under this Act, shall be punishable with the same punishment, and be liable to be proceeded against in the same manner, as if he had committed such offence.

Section 7 of
10 & 11 Geo.
V, c. 75.

Penalty for
harbouring spies.

10. If any person knowingly harbours any person whom he knows, or has reasonable grounds for supposing, to be a person who is about to commit or who has committed an offence under this Act, or knowingly permits to meet or assemble in any premises in his occupation or under his control any such persons, or if any person having harboured any such person, or permitted to meet or assemble in any premises in his occupation or under his control any such persons, wilfully omits or refuses to disclose to a Superintendent of Police any information which it is in his power to give in relation to any such person, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Section 7 of
1 & 2 Geo.
V, c. 28.

Search-warrants.

11. (1) If a Magistrate of the first class is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed, he may grant a search-warrant authorising any police-officer named therein to enter at any time any premises or place named in the warrant, if necessary, by force, and to search the premises or place and every person found therein, and to seize any sketch, plan, model, article, note or document, or anything of a like nature, or anything which is evidence of an offence under this Act having been or being about to be committed which he may find on the premises or place or any such person, and with regard to or in connection with which he has reasonable ground for suspecting that an offence under this Act has been or is about to be committed.

Section 9 of
1 & 2 Geo. V,
c. 28.

(2) Where it appears to a police-officer, not being below the rank of Superintendent, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any police-officer the like authority as may be given by the warrant of a Magistrate under this section.

Power to arrest.

12. Any person who is found committing an offence under this Act, or who is reasonably suspected of having committed, or having attempted to commit, or being about to commit, such an offence, may be apprehended and detained in the same manner as a person who is found committing a non-bailable and cognizable offence.

Section 6 of
1 & 2 Geo. V,
c. 28.Restriction on
trial of offences.

13. (1) No Court (other than that of a Magistrate of the first class specially empowered in this behalf by the local Government) which is inferior to that of a District or Presidency Magistrate shall try any offence under this Act.

Section 30
(3) of 1 & 2
Geo. V, c. 28.

(2) No Court shall take cognizance of any offence under this Act unless upon complaint made by order of, or under authority from, the Governor General in Council, the local Government, or some officer empowered by the Governor General in Council in this behalf:

Section 8
of 1 & 2
Geo. V, c. 28.

Provided that a person charged with such an offence may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody or on bail, notwithstanding that such complaint has not been made, but no further or other proceedings shall be taken until such complaint has been made.

(3) For the purposes of the trial of a person for an offence under this Act, the offence may be deemed to have been committed either at the place in which the same actually was committed or at any place in British India in which the offender may be found.

Section 8(3)
of 10 & 11 Geo.
V, c. 75.Exclusion of
public from pro-
ceedings.

14. (1) In addition and without prejudice to any powers which a Court may possess to order the exclusion of the public from any proceedings if, in the course of proceedings before a Court against any person for an offence under this Act or the proceedings on appeal, or in the course of the trial of a person under this Act, application is made by the prosecution, on the ground that the publication of any evidence to be given or of any statement to be made in the course of the proceedings would be prejudicial to the national safety, that all or any portion of the public shall be excluded during any part of the hearing, the Court may make an order to that effect, but the passing of sentence shall in any case take place in public.

Section 8(4)
of 10 & 11 Geo.
V, c. 75.Offences by com-
panies, etc.

15. Where the person guilty of an offence under this Act is a company or corporation, every director and officer of the company or corporation shall be guilty of the like offence, unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

Section 8(5)
of 10 & 11 Geo.
V, c. 75.

Repeals.

16. The Indian Official Secrets Act, 1889, and the Indian Official Secrets (Amendment) Act, 1904, are hereby repealed.

XV of 1889.
V of 1904.

STATEMENT OF OBJECTS AND REASONS.

The position in regard to the protection of official secrets in India is briefly as follows. The provisions of the law which are now in force are :—

- (a) An act of the Legislature in India—the Indian Official Secrets Act, 1889, as amended by the Indian Official Secrets (Amendment) Act, 1904; and
- (b) A Statute of Parliament,—the Official Secrets Act, 1911 (1 & 2 George V, c. 28).

The provisions of the British Statute have, as a result of experience gained during the War, been considerably modified by the enactment of the Official Secrets Act, 1920, but the latter Statute does not apply to British India.

2. It has for some time past been recognised that it is unsatisfactory to have two separate laws in force simultaneously in India. Further, although the British Act of 1911 is in force in India, difficulties arise in applying it because of the use in it of English common law terms and so on. For these reasons it is desirable that there should be a single consolidated Act applicable to Indian conditions, and the desirability of this has been emphasised by the passing of the British Act of 1920 which has considerably amended the Act of 1911, but is not applicable to India.

3. The provisions of the British Act of 1911 are more effective, particularly in the matter of the protection of military secrets than the Indian enactments, and they have been further strengthened by the enactment of the amending Statute of 1920, which is based on experience gained during the War. It is considered desirable, therefore, that the law in India should be assimilated to that in force in the United Kingdom, and the object of this Bill is to consolidate the provisions of the British Acts of 1911 and 1920 and to enact them in a form suitable for India.

4. As this Bill is a purely consolidating measure, it is not necessary to deal with the clauses in detail, but it may be mentioned that it is proposed to omit provisions on the lines of sections 4 and 5 of the Act of 1920, as it is considered that the matters dealt with in these sections are sufficiently covered by the provisions of the Indian Telegraph Act, 1885, and the Indian Post Office Act, 1898.

5. If this Bill is passed it will not be necessary to retain the Indian Acts, and provision is therefore made in clause 15 for their repeal.

W. H. VINCENT.

DELHI, the 27th February, 1922.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 25th March 1922:—

No. 16 OF 1922.

A

BILL

Further to amend the Criminal Tribes Act, 1911.

WHEREAS it is expedient further to amend the Criminal Tribes Act, 1911; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Criminal Tribes (Amendment) Act, 1922.

Amendment of section 2, Act III of 1911.

2. In section 2 of the Criminal Tribes Act, 1911 (hereinafter referred to as the said Act),—

(a) after clause (1) the following clauses shall be inserted, namely:—

“(1A) ‘district’ includes a Presidency town and the town of Rangoon;

“(1B) ‘District Magistrate’ means, in the case of a Presidency-town or the town of Rangoon, the Commissioner of Police;” and

(b) after clause (2) the following clause shall be inserted, namely:—

“(2A) ‘Superintendent of Police’ means, in the case of a Presidency-town or the town of Rangoon, any officer appointed by the local Government to perform the duties of a Superintendent of Police under this Act.”

Amendment of section 4, Act III of 1911.

3. In section 4 of the said Act the words of “or of any part thereof” shall be omitted.

Amendment of section 5, Act III of 1911.

4. In section 5 of the said Act,—

(a) for the words “a notice” the word “notice” shall be substituted;

(b) the words “or of such part thereof as is directed to be registered” shall be omitted; and

(c) in the proviso the words “or part thereof” shall be omitted, and after the word “registration” the words “and may cancel any such exemption” shall be added.

Amendment of
section 13, Act
III of 1911.

5. In section 13 of the said Act, after the word "settled" the following shall be added, namely:—

"and any officer empowered in this behalf by the local Government may, by order in writing, vary any such notification by directing the restriction of such criminal tribes to another area, or, as the case may be, its settlement in another place, in the same district."

Insertion of
new section 13A
in Act III of
1911.

6. After section 13 of the said Act, the following section shall be inserted, namely:—

Power of local
Government to
restrict or settle
criminal tribes in
another province.

"13A. Any notification made by the local Government under section 11 or section 13 may specify as the area to which the criminal tribe shall be restricted or as the place in which it shall be settled, an area or place situated in any other province, provided that the consent of the local Government of that province shall first have been obtained."

Substitution of
new section for
section 15, Act III
of 1911.

7. For section 15 of the said Act, the following section shall be substituted, namely:—

Application of
Act when criminal
tribe is trans-
ferred from one
province or dis-
trict to another.

"15. (1) Where a criminal tribe is restricted in its movements to an area, or is settled in a place of residence, situated in a province other than that by the local Government of which the notification under section 3 relating to such criminal tribe was issued, all the provisions of this Act and the rules made hereunder shall apply to the criminal tribe as if the notification had been issued by the local Government of such other province.

(2) If a criminal tribe, having been registered under section 4 in any district, is restricted in its movements to an area, or is settled in a place of residence, situated in another district (whether in the same province or not), the register or any relevant entries or entry therein shall be transferred to the Superintendent of Police of the last-mentioned district, and all the provisions of this Act and the rules made hereunder shall apply as if such criminal tribe had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5."

Amendment of
section 16, Act III
of 1911.

8. In section 16 of the said Act, the words "or any part thereof" shall be omitted.

Amendment of
section 18, Act III
of 1911.

9. In section 18 of the said Act,—

(a) after the words "local Government" the words "or any officer authorised by it in this behalf" shall be inserted; and

(b) in clause (b) the word "like" shall be omitted.

Amendment of
section 22, Act III
of 1911.

10. In sub-section (2) of section 22, after the word and figures "section 20" the words "may be arrested without warrant and" shall be inserted.

Insertion of new sections 27A and 27B in Act LI of 1911.

11. After section 27 of the said Act, the following sections shall be inserted, under the heading "*Supplemental*," namely :—

Power to deport certain criminal tribes to States in India.

"27A. The local Government, if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, may with the consent of the Prince or Chief of that State, direct the removal to that State of any criminal tribe for the time being in the province, and may authorise the taking of all measures necessary to effect such removal.

References to a criminal tribe to include references to part thereof in certain cases.

27B. The references to a criminal tribe in sections 4, 5, 11, 13, 14, 15, 16, 17 and 27A, shall be deemed to be references to a criminal tribe or any part thereof."

STATEMENT OF OBJECTS AND REASONS.

In December 1919 a conference was held at Delhi, attended by representatives of the Provinces of British India and of Indian States, to consider the future administration of the Criminal Tribes Act, 1911 (III of 1911). The provisions of the Act were examined in detail and a number of amendments were recommended by the conference. These recommendations were examined by the Government of India, and the amendments proposed by them were referred to local Governments for opinion. They have now been re-examined by the Government of India in the light of the opinions of the local Governments, and the final conclusions are embodied in the draft Bill.

2. A number of the amendments are merely formal or are designed to remove minor defects which experience of the working of the Act has brought to light. It is not necessary to explain these in detail. The changes of substance which it is proposed to include are dealt with individually in the following paragraphs.

3. *Clause 2 of the Bill.*—The object of this clause is to extend the application of the Act to the Presidency-towns and to Rangoon. The necessity for this amendment was urged by the Government of Bengal as far back as 1914, when they complained that the Act provided no machinery for the registration of the criminal tribes residing in a Presidency-town, and the proposal is strongly supported by the other local Governments concerned.

4. *Clause 5 of the Bill.*—Under section 13 of the Act, as it stands at present, the orders of the local Government are required before a criminal tribe or part thereof which has been restricted to or settled in a specified area by a notification under section 11 can be moved to another area. It has been represented that this causes inconvenience, both from the point of view of those who have to administer the Act, and from the point of view of the members of the criminal tribes themselves, who not infrequently desire to move with the object of visiting relatives or of bettering their chances of employment. It has been suggested that the local authorities should be authorised to transfer criminal tribes or members thereof within the same district, and clause 5 (read with the new section 27B which it is proposed to insert by clause 11 of the Bill) is intended to give effect to this suggestion.

5. *Clause 6 of the Bill.*—The object of this clause is to provide for the transfer of a criminal tribe from one province to another. Cases in which it is desirable that there should be such power are—

- (a) cases where a local Government finds it necessary to notify a tribe which has wandered into its jurisdiction from the province to which it really belongs; and
- (b) cases where employment is found for a criminal tribe in a province other than that in which it has been notified. The clause provides that this power shall not be exercised save with the consent of the local Government of the province to which the tribe is to be transferred.

6. *Clause 7 of the Bill.*—The main object of this clause is to provide that the provisions of the Act shall apply to a tribe which has been transferred to another province in exercise of the power which it proposed to confer by clause 6.

7. *Clause 9(a) of the Bill.*—This clause is intended to effect a delegation of power similar to that provided for in clause 5. Great inconvenience is caused by the necessity of referring to the local Government any case in which it is proposed to take action under section 18 of the Act. Provision is made for the delegation of powers under that section to the local authorities.

8. *Clause 10 of the Bill.*—The object of this clause is to authorise the arrest without a warrant of members of criminal tribes who commit offences punishable under section 22(2) of the Act. A recommendation to this effect was made by the conference, and the suggestion has been accepted by the local Governments.

9. *Clause 11 of the Bill.*—The intention of this clause is to add two new sections to the Act as 27A and 27B. The proposed new section 27B is formal, and provides that the term "criminal tribe" shall include any part of such tribe. The object of the proposed new section 27A is to provide for the transfer of criminal tribes from British India to Indian States. It is considered desirable, for the reasons for which it is proposed that provision should be made for transfer from one province to another, that there should also be provision for transfer from British India to Indian States and *vice-versa*. The Act, being an enactment of the Indian Legislature, can of course provide only for transfer from British India. It will be observed that the proposed new section is permissive in form and that it allows transfer only to States in which the local Government is satisfied that adequate provision has been made for the restriction or settlement of criminal tribes.

W. H. VINCENT.

The 11th March, 1922.

H. MONCRIEFF SMITH,

Secretary to the Government of India.